DATED [30th] May 2017

SECRETARY OF STATE FOR THE HOME DEPARTMENT

- and –

Carlson Wagonlit UK Ltd

SERVICES AGREEMENT

for the provision of Travel Services for immigration purposes

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THIS CONTRACT is made on the 30th of May 2017

BETWEEN

(1) **THE SECRETARY OF STATE FOR THE HOME DEPARTMENT** whose address is [redacted] (the "**Authority**" which term shall include its successors and permitted assigns); and

(2) **Carlson Wagonlit UK Ltd** (registered under number 2928209) whose registered office is Maple House, High Street, Potters Bar, Hertfordshire, EN6 5RF (the "**Service Provider**").

WHEREAS

RECITALS

(A) The Authority enters into this contract pursuant to its powers under the Immigration Acts.

(B) The main objective of this contract is to obtain from the Service Provider on a non-exclusive basis, the Travel Services for immigration purposes set out in this contract.

(C) By a number of Prior Information Notices (2015/S 127-232899 and 2016/S 021-032398) dated 4th July 2015 and 30th January 2016 and an advertisement published in the Official Journal of the European Union (2016/S 054-089911) dated 15th March 2016 the Authority requested expressions of interest in tendering for the provision of Travel Services for immigration purposes.

(D) As part of the tender process the Service Provider expressed an interest on [07th] April 2016 and submitted its offer to the Authority on 15th August 2016 which comprises the Request for Proposal and related documents.

(E) Upon and subject to the terms and conditions of this contract the Authority has accepted the offer and now wishes to appoint the Service Provider, and the Service Provider wishes to be appointed, as Service Provider of the Travel Services referred to above.

NOW IT IS HEREBY AGREED as follows:

PART 1 - GENERAL TERMS

1. DEFINITIONS

1.1 In the Contract (as hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

Acquired Rights Directive means Council Directive 2001/23/EC on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses as amended or re-enacted from time to time;

Affiliate means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;

Authority Representative in any provision of the Contract means the person duly authorised by the Authority to act for the purposes of the provision;

Authority means the Secretary of State for the Home Department including its successors and permitted assigns;

Authority Data means:

(a) the data, text, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:

(i) supplied to the Service Provider by or on behalf of the Authority; or

(ii) which the Service Provider is required to generate, process, store or transmit pursuant to this Contract; or

(b) any Personal Data for which the Authority is the Data Controller;

Authority Party means any employee, sub-contractor, agent, consultant or representative of the Authority authorised by the Authority to act in relation to this Contract;

Best Value Process means the process described in Annex D of Schedule D (Part 1 of *Service Specification*) relating to the purchasing of tickets on a best value basis.

Breach means any non performance or breach of the obligations of the Service Provider in connection with the Contract (including but not limited to fundamental breach or breach of a fundamental term) or any default, negligent or wrongful act, omission or statement of the Service Provider, its employees, agents, consultants or sub-contractors in connection with or in relation to the subject matter of the Contract;

Certificate of authorisation means a certificate which has the meaning given in section 147 of the Immigration and Asylum Act 1999 as amended and re-enacted from time to time;

Change in Law means any change in law including a change of a general legislative nature which impacts on the performance of the Services and comes into force after the Date of Contract;

Change of Control means a change of control to the Service Provider's organisation or similar changes of control to any Sub-contractor within the meaning of Section 450 of the Corporation Tax Act 2010. (*Change of Control*);

Charter Flight means flights on aircraft hired for the Authority for the specific purpose of removal of persons from the UK under the Immigration Acts.

Commencement Date means the1st November 2017;

Commencement of Full Operations means the date on which the Authority issues a Permit to Operate;

Commercially Available means, in relation to the Software referred in Clause 40 (*Intellectual Property Rights*) that the Software is generally available to be purchased or licensed on normal commercial terms.

Commercially Sensitive Information means the sub set of Confidential Information listed in column 1 of the table entitled 'Commercially Sensitive Contractual Provisions Table' set out in Schedule I (*Commercially Sensitive Information*) in each case for the period specified in column 2 of that table;

Comparable Supply means the supply of services to another Authority of the Service Provider that are the same or similar to the Services;

Compensation Event means an event listed in Clause 24 (*Compensation Events*) which may also trigger a Compensation Payment;

Compensation Payment means a payment which is made by the Service Provider to the Authority on the occurrence of a Compensation Event in accordance with the provisions of Clause 24 (*Compensation Events*);

Confidential Information means:

(a) information that ought to be considered as confidential or has been designated as such by the relevant party (however it is conveyed or on whatever media it is stored) and may include information whose disclosure would, or would be likely to, prejudice the commercial interests of any person or constitute an actionable breach of confidence, including Commercially Sensitive Information, information that relates to business affairs, developments, customers, suppliers, products, software developments, trade secrets, Intellectual Property Rights (including all Authority Background IPR and Project Specific IPR), know-how, the personnel of either party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998; and

(b) any other information (however it is conveyed or on whatever media it is stored) clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the relevant party's attention or into the relevant party's possession in connection with this Contract;

(c) discussions, negotiations, and correspondence between the Parties or between the Parties or any of their directors, officers, employees, agents, consultants, sub-contractors or professional advisers and all matters arising there from; and

(d) Information derived from any of the above;

Contract means this contract as concluded between the Authority and the Service Provider including all Schedules, annexes and appendices, attached thereto, together with any variations agreed by the Authority in accordance with Clause 46 (*Authority to Commit and Variation*) and references to "this Contract" and "the Contract" shall be interpreted accordingly;

Contract Administrator means the individual authorised to act on behalf of the Authority for the purposes of the Contract who, for the purposes of the Contract, is the only person authorised to raise changes to the Services that have a financial implication;

Contract Term shall be the period referred to in Clause 2 (*Duration of the Contract*);

Control means the possession by a person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and "**Controls"**

and **"Controls"** and **"Controlled"** shall be interpreted accordingly;

CPI means the "Consumer Price Index" as published by the Office for National Statistics or such index in such other journal as shall replace such table (and, for the avoidance of doubt, if CPI is rebased during the Contract Term, it shall nevertheless be determined for the purposes hereof as if no such rebasing had occurred);

Crown includes the Authority;

Crown Body means any department, office, executive, executive committee or particular bodies, persons, commissions or agencies from time to time carrying out functions on behalf of the Crown;

Current Escorting Contract means the agreement between the Authority and its Escorting Service Provider at the Date of Contract;

Data means all data and information received, created, processed or input by the Service Provider for from or on behalf of the Authority or third parties pursuant to an obligation to the Authority in performing the Contract in all media and all formats including without limitation any data or information relating to a Service User;

Data Controller shall have the same meaning as set out in the Data Protection Act 1998;

Data Processor shall have the same meaning as set out in the Data Protection Act 1998;

Data Protection Act means the Data Protection Act 1998;

Data Protection Legislation means the Data Protection Act 1998 as amended from time to time and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable any guidance and codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;

Data Subject shall have the same meaning as set out in the Data Protection Act 1998;

Date of Contract means the date of signature of the Contract;

day means any period of twenty-four (24) hours beginning at midnight;

Detainee means a person detained under the Immigration Acts or any other person to which the Services apply;

Detainee Custody Officer means a person in respect of whom a certificate of authorisation issued under section 154 of the Immigration and Asylum Act 1999 is for the time being in force certifying that he has been approved by the Authority for the purpose of performing Escort Functions in relation to detainees and that he is accordingly authorised to perform them;

Detainee Escorting and Population Management Unit or "DEPMU" means the Authority's Detainee Escorting and Population Management Unit whose address will be notified to the Service Provider from time to time;

Dispute has the meaning given to it in Clause 55 (*Dispute Resolution*);

document means any written or printed work, or photograph, or any work produced by electronic mean including technical specifications, user manuals, operating manuals, process definitions and procedures and other documentation including designs relating to software of the Service Provider;

Environmental Information Regulations or "EIRs" means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations

Equipment means all equipment, materials, consumables and plant to be used by the Service Provider in the provision of the Services other than property which belongs to the Authority or the Service Provider's corporate office equipment and furniture, laptops, mobile phones, and management cars;

Escorts means Detainee Custody Officers undertaking Escort Duties.

Escort Duties means Escort Functions undertaken by Detainee Custody Officers in carrying out their obligations under this Contract;

Escort Functions means escort functions as defined in Section 147 of the Immigration and Asylum Act 1999;

Escorting Service Provider means a third party provider which provides Escorts for the Authority from time to time. For the avoidance of doubt, the identity of the Escorting Provider may change during the Contract Term;

Euro Compliant means that:

(a) the introduction of the euro within England or any part of the UK shall not affect the performance or functionality of any relevant items nor cause such items to malfunction, end abruptly, provide invalid results or adversely affect the Authority's business;

(b) all currency-reliant and currency-related functions (including all calculations concerning financial data) of any relevant items enable the introduction and operation of the euro; and

(c) in particular each and every relevant item shall, to the extent it performs or relies upon currency-related functions (including all calculations concerning financial data):

(i) be able to perform all such functions in any number of currencies and/or in euros;

(ii) during any transition phase applicable to the UK, be able to deal with multiple currencies and in relation to the euro and the national currency of England and Wales and/or the UK dual denominations;

(iii) recognise accept, display and print all the euro currency symbols and alphanumeric codes which may be adopted by any government and other European Union body in relation to the euro;

(iv) incorporate protocols for dealing with rounding and currency conversion;

(v) recognise data irrespective of the currency in which it is expressed (which includes the euro) and express any Service data in the national currency of England and Wales and/or the UK and/or the euro; and

(vi) permit the input of data in euro and display an outcome in euro where such data, supporting the Authority's normal business practices, operates in euro and/or the national currency of England and Wales and/or the UK;

Event of Default means any of the events listed in Clause 27 (*Default by the Service Provider*);

Expiry Date means, subject to Clause 61 (*Extension of the Contract Term*), the date falling 5 years from Commencement Date;

Fees Regulations means The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004;

FOIA means the Freedom of Information Act 2000 and any subordinate legislation (as defined in Section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such Act;

Force Majeure Event means any event outside the reasonable control of either Party affecting its performance of its obligations under this Agreement arising fromacts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Supplier Personnel or any other failure in the Supplier's or a Sub-contractor's supply chain..**Full Operation Period** means the period from Commencement of Full Operations until the Expiry Date or the date of termination of the Contract, if earlier;

Good Industry Practice means standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill, diligence, timeliness, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in the same type of undertaking under the same or similar circumstances within the relevant industry or business sector and seeking in good faith to perform its obligations with sufficient financial resources and complying with all relevant Legislation and applicable law;

Guarantee means a parent company guarantee given on behalf of the Service Provider by the Guarantor in favour of the Authority in accordance with the provisions of Clause 3 (Parent

Company *Guarantee*) which is in substantially the form appended at Schedule E (*Form of Parent Company Guarantee*);

Guarantor means a parent company of the Service Provider which has entered into a Guarantee;

ICTA means the Income and Corporation Taxes Act 1988;

Immigration Acts shall have the meaning given to it in section 61 of the UK Border Act 2007;

Information has the meaning given under Section 84 of the Freedom of Information Act 2000;

Insurance means the insurance policies required to be taken out from time to time in accordance with the Contract;

Temporary Permit to Operate shall have the meaning given in Clause 11 (*Commencement of Full Operations and Permit to Operate*);

Intellectual Property Rights or "**IPR**" means:

(a) any design right, moral right, goodwill, copyright, database right, patent and rights in inventions, semi-conductor topography right, trade mark, rights in internet domain names, website addresses or performing right (whether registrable or otherwise) and other rights in trade or business names, designs, Know-How, trade secrets, other rights in Confidential Information or any other intellectual property right;

(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and

(c) all other rights having equivalent or similar effect in any country or jurisdiction;

Interim State has the meaning given in paragraph 1.1.3 of Schedule C (*Interim State*);

Invitation to Tender means the invitation to tender dated [1st July 2016 in respect of the Services;

Know-How means all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the Services but excluding know-how already in the Service Provider's or the Authority's possession before the Commencement Date;

Legislation means any Act (including without limitation the Immigration and Asylum Act 1999 and the Human Rights Act 1998) or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978 and any exercise of the Royal Prerogative and any enforceable community right within the meaning of Section 2 of the European Communities Act 1972 and in each such case includes the interpretation, administration or application thereof;

Malicious Software any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;

Mediator means a neutral advisor or mediator appointed pursuant to Clause 55 *(Dispute Resolution)*;

Mobilisation Costs means the amounts payable by the Authority to the Service Provider in respect of the Mobilisation Services, as set out in Schedule F (*Payment Mechanism)*;

Mobilisation Period means the period between the Commencement Date and the Commencement of Full Operations;

Mobilisation Services means those start-up Services which the Service Provider must carry out during the Mobilisation Period in order to receive the Permit to Operate, as more particularly described in Schedule B *(Mobilisation and Permit to Operate)*;

Month means a calendar month and monthly will be interpreted accordingly;

Named Representatives of the Authority means those persons whose names appear in Schedule M (*Named Representatives*) which may be amended from time to time pursuant to Clause 46 (*Authority to Commit and Variation*);

Named Representatives of the Service Provider means those representatives of the Service Provider whose names appear at Schedule M (*Named Representatives*) or such other person(s) notified to the Authority by the Service Provider in writing attaching a resolution of the board of directors of the Service Provider appointing such person(s);

Notice of Change shall have the meaning ascribed to it in Clause 9 (*Changes*);

Parties mean the Service Provider and the Authority;

Permit to Operate means the permit described in Schedule B (*Mobilisation and Permit to Operate*) and referred to in Clause 11 (*Commencement of Full Operation and Permit to Operate*);

Person means any individual, firm, company, partnership, corporation, joint venture, association, trust, unincorporated association, agency, Government department or agency of the Crown (whether or not having separate legal personality);

Personal Data means personal data as defined in the Data Protection Act, which is Processed by the Supplier or any Sub-contractor on behalf of the Authority or a Central Government Body pursuant to or in connection with this Contract;

Personnel mean persons directly employed by the Authority;

Process has the meaning given to it under the Data Protection Legislation but, for the purposes of this Contract, it shall include both manual and automatic processing;

"Prohibited Act" means:

1. to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:

a) induce that person to perform improperly a relevant function or activity; or

b) reward that person for improper performance of a relevant function or activity; or

2. committing any offence:

a) under the Bribery Act 2010; or

b) under legislation creating offences concerning fraudulent acts; or

c) at common law concerning fraudulent acts relating to this Contract or any other contract with the Authority or any other contracting authority; or

(d) defrauding, attempting to defraud or conspiring to defraud the Authority or any other contracting authority;

Rectification Notice means any notice issued in accordance with Clause 29 (*Rectification*);

Redundancy Payments means any amounts properly payable by the Service Provider, whether by virtue of statute or under any contract of employment, as a result of making redundant an employee exclusively engaged in the provision of the Services;

Regulatory Bodies means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Authority and "**Regulatory Body**" shall be construed accordingly;

Relevant Regulatory Authority means the European Commission or the Competition and Markets Authority or such other regulator who may have concurrent jurisdiction with the Competition and Markets Authority under the Competition Act 1998 as amended and re-enacted from time to time;

Relevant Requirements means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;

Replacement Service Provider means any third party service provider of Replacement Services appointed by the Authority from time to time;

Replacement Services means any services which are substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry or termination or partial termination of this Contract, whether those services are provided by the Authority internally and/or by any third party;

Request for Information shall have the meaning set out in the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations as relevant (where the meaning set out for the term "request" shall apply);

Required Action shall have the meaning given in Clause 62 (*Step-In Rights*);

Security Policy means any policy which sets out the Authority's requirements with regard to security which is notified by the Authority to the Service Provider, as the same may be updated from time to time;

Service Delivery Plan means the Service Provider's plan for delivery of the Services, produced in accordance with the requirements of Schedule D (*Service Specification*);

Service Provider Party means any employee, sub-contractor, agent, consultant or representative of the Service Provider authorised to act by the Service Provider in relation to this Contract;

Service Provider's Background IPRs means:

(a) IPRs owned by the Service Provider before the Date of Contract, for example those subsisting in the Service Provider's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Service Provider 's Know-How or generic business methodologies; and/or

(b) IPRs created by the Service Provider independently of this Contract but excluding IPRs owned by the Service Provider subsisting in the Service Provider's software;

Service Provider's Representative means the individual authorised to act on behalf of the Service Provider for the purposes of the Contract;

Service Provider System means the information and communications technology system used by the Service Provider in performing the Services including the Service Provider's software, the Service Provider Equipment and related cabling (but excluding the Authority's IT system);

Service Request means a request for Services issued by the Authority in accordance with the provisions of Schedule D (*Service Specification*);

Services means all of the services that the Service Provider is required to provide under the Contract as more particularly set out within Schedule D (*Service Specification*) including any changes agreed pursuant of Clause 9 (*Changes*);

Specific Change in Law means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply;

Staff means (except in Clause 45 (*Independent Contractor*)) persons from time to time who work or perform duties or provide Services (whether or not on a full-time basis and whether paid or volunteers) following the Commencement Date whether they are an employee, consultant, or agent of or otherwise engaged by the Service Provider, or an employee, consultant or agent of or otherwise engaged by any Sub-contractor, and a member of staff shall have the like meaning;

Standards means the British, European or International standards which apply to the Services, together with any applicable internal policies and procedures and Government codes of practice which are identified as "Standards" and notified by the Authority to the Service Provider from time to time or which a skilled and experienced contractor in the same type of industry or business sector as the Service Provider would reasonably and ordinarily be expected to comply with;

Step-In Notice shall have the meaning given in Clause 62 (*Step-In Rights)*;

Step-Out Notice shall have the meaning given in Clause 62 (*Step-In Rights)*;

Step-in Rights shall have the meaning given in Clause 62 (*Step-In Rights)*;

Sub-contract means the contract between the Service Provider and the relevant Sub-contractor providing for the performance by the Sub-contractor of some or all of the obligations of the Service Provider hereunder;

Sub-contractor means any person who has contracted with the Service Provider for the performance of any obligation of the Service Provider under the Contract (including, without limitation providers of Charter Flights) who has been approved by the Authority pursuant to Clause 6 (*Sub-contracting)* and the employees, agents, sub-contractors and consultants of that person;

Termination Date means the date on which the Contract terminates in accordance with the terms hereof;

Termination Notice means a notice issued in accordance with Clause 30 (*Termination for Default*);

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations or UK legislation implementing the Acquired Rights Directive;

Valid Invoice means an invoice issued by the Service Provider to the Authority that complies with the invoicing procedure in Schedule F (*Payment Mechanisms*);

Value Added Tax and **VAT** means United Kingdom value added tax in accordance with the provisions of the Value Added Tax Act 1994 including any similar tax which may be imposed in place thereof from time to time;

Virus means any thing or device which may impair or otherwise adversely affect the operation of any computer, prevent or hinder access to any program or data, impair the operation of any program or the reliability of any data (whether by rearranging the same within the computer or any storage medium or device or by altering or erasing the program or data in whole or in part or otherwise), including computer viruses or other similar things;

Year means a calendar year unless otherwise specified.

1.2 In this Contract, except where the context otherwise requires:

1.2.1 the masculine includes the feminine and the singular includes the plural;

1.2.2 any reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument (including any EC or EU instrument) as amended or re-enacted;

1.2.3 any reference to a monetary amount being "**Indexed**" shall mean that the relevant amount shall be increased annually in accordance with the provisions of Schedule F (*Payment Mechanism*);

1.2.4 any reference to a date or time is a reference to that date or time in London England, unless expressly stated otherwise

1.2.5 any reference to an alteration in costs "in real terms" excludes changes attributable to RPI during the relevant period;

1.2.6 any reference to an agreement, contract or document shall be to such agreement, contract or document as amended, supplemented, novated or replaced as permitted under the Contract;

1.2.7 references to Recitals, Clauses, Annexes, Appendices, Schedules, paragraphs of Schedules, annexes or appendices are references to recitals and annexes to, clauses of, schedules to and paragraphs of schedules to, and annexes or appendices to, this Contract.

1.2.8 any reference in the Contract to a Schedule shall be to such Schedule as amended, modified or varied in accordance with the terms hereof; and

1.2.9 the headings to the Clauses contained herein are for the convenience of the parties and are not intended to affect the interpretation thereof.

1.3 The Schedules (and any attachments to the Schedules form part of this Contract and shall have the same force and effect as if expressly set out in the body of the Contract and reference to this Contact shall include the Schedules and any such attachments.

1.4 The division of the Contract into sections and the insertion of clause and paragraph headings are for ease of reference only and shall not affect the interpretation or construction of this Contract.

1.5 Where any warranty contained in this Contract is qualified by the expression "so far as the Service Provider is aware" that expression shall be deemed to include an additional representation that the Service Provider has made all due, diligent and careful inquiry as to the matters concerned in such warranty

2. DURATION OF THE CONTRACT

2.1 Subject to Part 30 (*Default and Termination*) and Clause 61 (*Extension of the Contract Term*) of the Contract and any other provisions herein relating to termination, expiry or extension, the Contract shall continue from the Commencement Date of Contract until the Expiry Date unless extended or terminated earlier in accordance with the provisions of this Contract.

2.2 Subject to Clause 11 *(Commencement of Full Operation and Permit to Operate)* the Contract will have binding effect from the Date of Contract.

3. PARENT COMPANY AND GUARANTEE

3.1 If the Authority considers it appropriate the Service Provider shall on the Date of Contract or on such later date as the Authority may stipulate, procure at its own cost that its ultimate Parent Company shall provide a guarantee for the performance of the Contract by the Service Provider in the form of the Parent Company Guarantee set out in Schedule E *(Form of Parent Company Guarantee)* of the Contract.

3.2 The Authority shall not be obliged to make any payments under this Contract until the Provider has complied with Clause 3.1.

4. INDEMNITY

4.1 Service Provider Indemnity

4.1.1 The Service Provider shall on demand fully indemnify and hold harmless the Authority, the Crown, its officers, employees, services, consultants and agents against all actions, suits claims, demands, liabilities, charges, damages, costs, expenses losses, proceedings or other liabilities incurred or suffered whatsoever and however arising out of or in connection with any:

(a) claims, demands or proceedings brought against the Authority, or the Crown by any third party by reason of any fault of the Service Provider, its Staff or Sub-Contractors;

(b) fraudulent or negligent act or omission, of the Service Provider including without limitation any misappropriation of monies due to the Authority in relation to this Contract;

(c) default of the Service Provider committed by the Service Provider, its Staff or Sub-Contractors unless such breach is due to the negligent acts or omissions of the Authority its staff or Agents.

4.1.2 The Service Provider's liability to the Authority pursuant to this Clause 4 shall be without prejudice to any other right or remedy available to the Authority.

4.1.3 Service Provider shall indemnify the Authority against the costs and expenses incurred or suffered by the Authority detaining or causing to be detained the subject of a failed, proposed removal under the Immigration Acts where such costs or expenses arise as a result of the act or omission of the Service Provider.

4.1.4 Except to the extent specifically provided herein or where the Authority is guilty of wilful misconduct or commits any negligent act or omission giving rise to death or personal injury the Authority shall not have any responsibility or liability to the Service Provider with respect to:

(a) any liability or loss suffered which is caused directly or indirectly by reason of any of the provisions hereof;

(b) the design, maintenance, or operation or financing of the Service or any risks relating thereto; or

(c) any interruption or loss of business, anticipated profits or consequential damages.

5. INSURANCE

5.1 Obligation to Maintain Insurances

5.1.1 Without prejudice to its liability to indemnify or otherwise be liable to the Authority under this Contract, the Service Provider shall for the periods specified in Schedule A (*Insurance*) take out and maintain, or procure the taking out and maintenance of the insurances as set out in Schedule A (*Insurance*) and any other insurances as may be required by applicable law or relevant regulation (together the "Insurances"). The Service Provider shall ensure that each of the Insurances is effective no later than the date on which the relevant risk commences.

5.1.2 The Insurances shall be taken out and maintained with insurers who are of good financial standing and of good repute in the international insurance market.

5.2 General Obligations

5.2.1 Without limiting the other provisions of the Contract, the Service Provider shall:

5.2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to the Contract as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice;

5.2.1.2 hold all policies in respect of the Insurances and cause any insurance broker effecting any of the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

5.3 Non Invalidation and Failure to Insure

5.3.1 The Service Provider shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which would entitle any insurer to refuse to pay any claim under any of the Insurances (and shall procure that any relevant Sub-contractor or charter company gives the same undertaking).

5.3.2 Where the Service Provider has failed to purchase any of the Insurances or maintain any of the Insurances in full force and effect, the Authority may elect to make alternative arrangements to protect its interests (but shall not be obliged) following written notice to the Service Provider which may include purchasing the relevant Insurances, and the Authority shall be entitled to recover the premium and other reasonable costs incurred in connection therewith as a debt due from the Service Provider.

5.4 **Evidence of Insurances**

The Service Provider shall from the date of this Contract and within twenty (20) days after the renewal or replacement of each of the Insurances, provide evidence, in a form satisfactory to the Authority, that the Insurances meet in full the requirements of Schedule A (Required Insurances). Receipt of such evidence by the Authority shall not in itself constitute acceptance by the Authority or relieve the Service Provider of any of its liabilities and obligations under this Agreement.

5.5 **Cancellation**

5.5.1 Subject to Clause 5.5.2 the Service Provider shall notify the Authority in writing at least five (5) days prior to the cancellation, rescission, suspension, termination, voiding or non-renewal of any of the Insurances or any cover or claim under any insurance in whole or in part.

5.5.2 Clause 5.5.1 shall not apply where the termination of any Insurances occurs purely as a result of a change of insurer in respect of any of the Insurances required to be taken out and maintained in accordance with this Clause 5 and the provisions of Clauses 5.1.2 and 5.1.4 shall apply.

5.6 **Insurance Claims**

5.6.1 The Service Provider shall promptly notify to insurers any matter arising from, or in relation to, the Contract for which it may be entitled to claim under any of the Insurances. In the event that the Authority receives a claim relating to or arising out of the Contract, the Service Provider shall co-operate with the Authority and assist it in dealing with such claims at its own expense including without limitation providing information and documentation in a timely manner.

5.6.2 Except where the Authority is the claimant party, the Service Provider shall give the Authority notice within twenty (20) days after any insurance claim in excess of [redacted] relating to or arising out of the Contract on any of the Insurances or which, but for the application of the applicable policy excess, would be made on any of the Insurances and (if required by the Authority) full details of the incident giving rise to the claim.

5.7 **Premiums and Deductibles**

5.7.1 Where any Insurance requires payment of a premium, the Service Provider shall be liable for and shall promptly pay such premium.

5.7.2 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers has excluded, the Service Provider shall be liable for such excess or deductible. The Service Provider shall not be entitled to recover from the Authority any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

5.8 **Liability for Aircraft**

The Authority shall accept no liability for loss or damage to any aircraft used in the execution of the removal and the Service Provider shall ensure any airline or Charter Company agrees with this.

5.9 **Amendments to Schedule A (*Insurances*)**

The Authority may require the Service Provider to amend the terms of Schedule A (*Insurance)* and any such amendment shall be dealt with in accordance with Clause 9 (*Changes*).

6. SUB-CONTRACTING

6.1 Permitted Sub-contractors

6.1.1 The Service Provider shall not at any time permit any of its obligations under the Contract to be performed or undertaken by any other Person without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed). Subject to Clauses 6.2 to 6.6, the Authority hereby consents to the Sub-contractors listed in Schedule K (*Permitted Sub-contractors and Sub-contracts at the Date of Contract*) performing the services referred to in Schedule K (*Permitted Sub-Contractors and Sub-Contracts at the Date of the Contract*).

6.1.2 The Service Provider shall take all reasonable steps to secure the due observance by each Sub-contractor (including any replacement Sub-contractor) of all such obligations and the due observance by each Sub-contractor of all obligations under the relevant Sub-contract and, at the Authority's request, shall provide any assistance required by the Authority in its pursuit of any claim against a Sub-contractor or any of its employees or sub-sub-contractors pursuant to any such obligation, including without limitation giving evidence before a court, expert or arbitrator.

6.2 The Service Provider shall be directly responsible for the management and supervision of Sub-contractors unless otherwise requested by the Authority which shall include managing Sub-Contractors in accordance with Good Industry Practice and Best Value Process.

6.3 Where appropriate prior to appointing a Sub-Contractor the Service Provider shall exercise reasonable endeavours to ensure that:

(a) it notifies the Authority of the proposed Sub-Contractors name, registered office and company registration number;

(b) it notifies the Authority of the scope of the Services to be provided by the Sub-Contractor prior to the Sub-Contractors appointment; and

(c) it can assign, novate or otherwise transfer to the Service Provider or any replacement of the Service Provider any of its rights and/or obligations under the relevant Sub-Contract;

(d) where the proposed Sub-Contractor is an Affiliate of the Service Provider, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed Sub-Contract has been agreed on "arm's-length" terms.

6.4 The Service Provider shall ensure that all Sub-Contracts contain a provision:

(a) requiring the Service Provider to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice;

(b) requiring that any invoices submitted by a Sub-Contractor shall be considered and verified by the Service Provider in a timely fashion and that undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed; and

(c) requiring the Sub-Contractor to include in any Sub-Contract which it in turn awards suitable provisions to impose, as between the parties to that Sub-Contract, requirements to the same effect as those required by sub-clauses and directly above; and

(d) conferring a right to the Service Provider to publish the Service Provider's record of compliance with its obligation to pay undisputed invoices within the specified payment period.

6.5 The giving of consent by the Authority to the identity of a Sub-contractor or the review or approval by the Authority of the terms of any Sub-contract or the knowledge of the Authority of the appointment of any Sub-contractor shall not relieve the Service Provider of any of its obligations or liabilities under or pursuant to the Contract nor render the Authority in any way liable to the Sub-contractor or in any way bound by the terms of any Sub-contract, and the Service Provider shall remain wholly and primarily responsible for its liabilities and obligations under or in connection with the Contract.

6.6 The Authority may require the Service Provider to terminate a Sub-Contract where:

(a) the acts or omissions of the relevant Sub-Contractor have caused or materially contributed to the Authority's right of termination pursuant to Clause 30 (*Termination for Default*);

(b) the relevant Sub-Contractor or its Affiliates embarrassed the Authority or otherwise brought the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Sub-Contractor's obligations in relation to the Services or otherwise; or

(c) there is a Change of Control of a Sub-Contractor, unless the Authority has given its prior written consent to the particular Change of Control, which subsequently takes place as proposed or the Authority has not issued a notice objecting to the Change of Control within six (6) months of the later which will either be:

(i) the date the Change of Control took place, or

(ii) the date on which the Authority was given notice of the Change of Control.

6.7 If the Authority is able to obtain from any Sub-Contractor or any other third party more favourable commercial terms with respect to the supply of any materials, equipment, software, goods or services used by the Service Provider Service Provider Service Provider in relation to the supply of the Services, then the Authority may:

(a) require the Service Provider to replace its existing commercial terms with its Sub-Contractor with the more favourable commercial terms obtained by the Authority in respect of the relevant item; or

(b) subject to the Service Provider's right to terminate the Sub-Contract, enter into a direct agreement with that Sub-Contractor or third party in respect of the relevant item.

6.8 The Customer's right to enter into a direct agreement under 6.7.(b) for the supply of the relevant items is subject to:

(a) the Authority making the relevant item available to the Service Provider where this is necessary for the Service Provider to provide the Services; and

(b) any reduction in the Contract Charges taking into account any unavoidable costs payable by the Service Charges in respect of the substituted item, including in respect of any licence fees or early termination charges.

7. ASSIGNMENT AND NOVATION

7.1 Subject to Clause 6 (*Sub-contracting*) the Service Provider shall not give, bargain, sell, assign, novate, transfer, sub-let, sub-contract or otherwise dispose of the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof or any liabilities or obligations under the Contract or any part thereof.

7.2 Nothing in the Contract shall prohibit or prevent any assignment, novation, transfer or disposal by the Authority of any of its rights or obligations under the Contract in favour of:

7.2.1 another Minister of the Crown; or

7.2.2 any other Person not being a Minister of the Crown provided that in the case of this Clause 7.2.2:

(a) the Service Provider has confirmed to it that the Service Provider has given its consent (which consent shall not be unreasonably withheld or delayed); and

(b) the person to whom the assignment, transfer or disposal is made has agreed in writing with the Service Provider on the same terms as the Contract.

8. PROVISION AND INTERPRETATION OF INFORMATION

8.1 The Service Provider is responsible for obtaining all information necessary for carrying out its obligations of the Contract. The Service Provider shall not rely and shall be deemed not to have relied on any information provided by the Authority on these matters and (except in the case of fraudulent mis-statements) the Authority shall not be liable to the Service Provider (whether in contract, tort, under statute or otherwise howsoever and whether or not arising out of any negligence on the part of the Authority or any agent or servant thereof) in respect of nor shall the Contractor be relieved from any of its obligations under the Contract as a result of any inaccuracy, error, omission, unfitness for purpose, defect or inadequacy of any kind whatsoever in such information provided by the Authority.

8.2 The Service Provider shall be deemed to have satisfied itself as regards the nature and extent of the Services and the risks assumed by it under this Contract, the supply of and conditions affecting labour and the suitability of the Equipment necessary for the performances of the Services.

8.3 The Authority shall not be liable for any costs arising from the Service Provider's failure to perform its obligations under this Clause 8 or from any lack of knowledge which the Service Provider is deemed to have under the foregoing provisions of this Clause 8.

9. CHANGES

9.1 Right of Authority to Request a Change

9.1.1 The Authority may delete, suspend, amend, or alter the extent of any obligation to be met by the Service Provider under the Contract, or add to the obligations of the Service Provider under the Contract, by giving written notice (the "**Notice of Change**") to the Service Provider of the required change and complying with Clauses 9.1.1 to 9.1.4 (inclusive) shall apply in the case of changes to the prices and rates set out in Schedule F (*Payment Mechanism*) which result from a Notice of Change. To avoid doubt, the Authority is permitted to withdraw a Notice of Change by way of written notice to the Service Provider or allow a Notice of Change to lapse. Where the Authority so withdraws a Notice of Change or elects to allow a Notice of Change to lapse, the Parties will be responsible for their own costs incurred prior to such withdrawal or lapse.

9.1.2 Subject to Clauses 9.1.1, following service of any Notice of Change, the Authority will consult with the Service Provider with respect to the deletion, suspension, alteration, extension of or addition to the obligations hereunder, and the Service Provider shall provide the Authority on or before the date falling ten (10) Business Days after the date of the Notice of Change with:

(a) a reasonable estimate of the increase or reduction in the then-applicable prices and rates payable under Schedule F (*Payment Mechanism*) (if any), or proposal of other changes to the terms set out herein, which it believes should occur as a result of the changes set out in the Notice of Change; and

(b) a risk assessment which sets out the risks (if any) it has identified in relation to the proposed change.

9.1.3 Any such estimate shall be accompanied by a reasonably detailed breakdown of the manner in which the estimate is calculated together with any information which the Authority may reasonably require including without limitation breakdowns of price and supporting material for the purpose of satisfying the Authority that the proposed revised price is fair and reasonable.

9.1.4 The Authority may accept or reject such estimate or proposal. In the event that the Authority accepts such estimate or proposal, the changes referred to in the Notice of Change shall come into immediate effect, the prices and rates payable under Schedule F (*Payment Mechanism*) (or other relevant terms hereof) shall change as set out in the Service Provider's estimate or proposal, and the terms of the Contract shall be deemed changed as set out in the Notice of Change (except when the changes cannot be reasonably effected immediately, in which case the Authority shall allow the Service Provider such further period to effect such changes as is reasonably necessary). If the Authority rejects such estimate or proposal, it may either:

(a) elect to allow the Notice of Change to lapse; or

(b) elect that the changes referred to in the Notice of Change shall come into immediate effect (in the same manner and subject to the same conditions as to time allowed to the Service Provider as aforesaid) but that the prices and rates set out in Schedule F (*Payment Mechanism*) shall be varied or not varied in accordance with Clause 55 (*Dispute Resolution*).

Service Provider Changes

9.1.5 The Service Provider may propose changes to the Services pursuant to this Clause 9.2. Such proposals shall be made in accordance with this Schedule L (*Change Control Procedures*).

9.1.6 No change to the Services shall be implemented by the Service Provider unless and until the Authority has given its written consent.

9.1.7 The Authority shall be free to accept or reject any proposed change as it thinks fit and may require that there be a reduction in the then-applicable prices and rates set out in Schedule F (*Payment Mechanism*) if such change results in lower costs for the Service Provider in performing its obligations hereunder so as to reflect the amount of any reduction in costs.

9.2 Principles for Variation of the Prices and Rates set out in Schedule F (*Payment Mechanism*)

9.2.1 Any change to the prices and rates set out in Schedule F (*Payment Mechanism*) which is determined under this Clause 9 shall be determined in accordance with the principles set out in Schedule F (*Payment Mechanism*). The Service Provider shall and shall procure that the Sub-contractors shall, so far as they are reasonably able, mitigate any costs arising as a result of the implementation of a Notice of Change.

9.3 Principles for Variation of the Service Delivery Plan

9.3.1 The Service Delivery Plan may only be amended with the prior written consent of the Authority which may not be unreasonably withheld or delayed.

9.4 Exclusions to Change Procedure

9.4.1 For the avoidance of doubt, it shall not be deemed a change to any obligation hereunder and there shall not be any variation of the prices and rates payable under Schedule F (*Payment Mechanism*) pursuant to any provision of the Contract if:

(a) the provision of the Services changes in any way within the parameters set out in Schedule D (*Service Specification*); or

(b) the Authority requires any amendments to be made pursuant to Clause 18 (*Monitoring, Inspection and Access*).

9.5 **Change of Law**

9.5.1 The Service Provider shall neither be relieved of its obligations to supply the Services in accordance with the terms of this Contract nor be entitled to an increase in the prices and rates payable in accordance with Schedule F (*Payment Mechanism*) as the result of:

(a) a Change in Law; or

(b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is known at the Date of Contract.

9.5.2 If a Specific Change in Law occurs or will occur during the Term (other than those referred to in Clause 9.6.1), the Service Provider shall notify the Authority of the likely effects of that change, including whether any change is required to the Services, the prices and rates payable under Schedule F (*Payment Mechanism*) or this Contract; and

9.5.3 As soon as practicable after any notification in accordance with Clause 9.6.2, the parties shall discuss and agree the matters referred to in that clause and any ways in which the Service Provider can mitigate the effect of the Specific Change of Law, including:

(a) providing evidence that the Service Provider has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-contractors;

(b) demonstrating that a foreseeable Specific Change in Law had been taken into account by the Service Provider before it occurred;

(c) giving evidence as to how the Specific Change in Law has affected the cost of providing the Services; and

(d) demonstrating that any expenditure that has been avoided, has been taken into account in amending the prices and rates payable under Schedule F (*Payment Mechanism*).

9.5.4 Any increase in the prices and rates payable under Schedule F (*Payment Mechanism*) shall be implemented in accordance with the Change Control Procedure.

PART 2 - MOBILISATION PERIOD

10. PREPARATION FOR THE SERVICES

10.1 The Service Provider shall provide Mobilisation Services, in accordance with the provisions of Schedule B (*Mobilisation and Permit to Operate*).

11. COMMENCEMENT OF FULL OPERATIONS AND PERMIT TO OPERATE

11.1 Without prejudice to the Authority's rights under Clause 30 (*Termination for Default*) and the provisions of Clause 31 (*Termination for Convenience*), Clause 5 (*Insurance*) and Clause 4 (*Indemnity*) the Service Provider shall obtain a Permit to Operate from the Authority on or before the Commencement of Full Operations. For the avoidance of doubt, the Authority shall not be liable to make any payment in respect of the Services prior to the Service Provider being issued with a Permit to Operate.

11.2 Without prejudice to the Authority's rights under Clause 11.1 the Authority may decide to issue a Temporary Permit to Operate if it considers that paragraph 2.1.5 of Schedule B (*Mobilisation and Permit to Operate*) applies:

11.2.1 until such time as the Service Provider has satisfied the Authority that the requirements for the issue of a Permit to Operate have been satisfied; or

11.2.2 for such period as the Authority thinks fit.

For the avoidance of doubt, if the Authority issues a Temporary Permit to Operate the Authority shall not be liable to make any payment in respect of the Services prior to the Service Provider being issued with a Permit to Operate.

11.3 The Service Provider shall be responsible for payment of any additional costs incurred by the Authority due to the Service Provider's inability to commence the Service by the Commencement of Full Operations Date, save where such inability is a direct result of the Authority's act or omission.

11.4 A minimum of ten (10) days prior to the date when the Service Provider considers it will have satisfied the requirements for obtaining the Permit to Operate the Service Provider shall give written notice to the Authority of such opinion.

11.5 When so notified, the Authority, and such other persons as the Authority may specify, shall carry out necessary testing and inspections for the purpose of issuing the Permit to Operate.

11.6 The Authority shall issue the Permit to Operate unless in the opinion of the Authority (acting reasonably) the requirements for the issue of the Permit to Operate are not satisfied, in which case the Authority shall provide the Service Provider with a written record of the reasons why the Permit to Operate will not be issued.

11.7 Where the Authority refuses to issue the Permit to Operate, and a written record of the reasons has been provided to the Service Provider in accordance with Clause 11.6, the Service Provider shall comply with the requirements of this Clause 11 when again seeking the Permit to Operate, save that the notice period specified in Clause 11.4 shall be fourteen (14) days instead of ten (10) days but the Authority shall respond as soon as reasonably practicable within the notice period, taking into account any reasons for any such refusal.

11.8 The Authority shall consider any request for the Permit to Operate as soon as reasonably practicable following receipt by the Authority of the Service Provider's notice under Clause 11.4 (having regard to such information as the Authority shall consider necessary or desirable to obtain from any other person in connection with such application), and without prejudice to the foregoing the Authority shall notify the Service Provider as soon as reasonably practicable after becoming aware that any such request is not complete in a material respect

PART 3 – OPERATIONAL MATTERS

12. PROVISION OF SERVICES

12.1 The Service Provider shall provide the Services on a non-exclusive basis throughout the Contract Term in accordance with the provisions of this Contract.

12.2 The Service Provider shall co-operate with the Escorting Service Provider at all times in providing the Services and shall use reasonable endeavours to enter into an agreement which is the same or similar to the Interface Agreement with the Current Escorting Service Provider before the Commencement of Full Operations and whenever there is a change to the Escorting Service Provider thereafter.

13. CONDUCT OF THE SERVICES

13.1 The Service Provider shall be responsible for ensuring that the obligations of the Contract are carried out in accordance with Good Industry Practice and the Best Value Process.

13.2 The Service Provider shall ensure that all the Services carried out under the Contract are performed by suitably qualified Persons and that appropriate Standards, specifications or any equivalent where such exist are used, unless otherwise agreed in writing by the Authority.

13.3 The Service Provider shall establish and maintain the capability (including, but not limited to, sufficient tools, materials and Equipment and an adequate number of competent Staff with appropriate experience) to execute the Services in accordance with the Contract.

13.4 The Service Provider shall at all times comply with all Legislation, statutory, regulatory and contractual requirements relevant to the delivery and administration of the Services including but not limited to those concerning health and safety, employers and public liability, discrimination on grounds of race, sex and disability, human rights, confidentiality, data protection, employment law, transfer of undertakings, and any further requirements specified herein or by any registration or licensing scheme in operation at local level.

13.5 The Service Provider shall be directly responsible for the management and supervision of sub-contractors engaged pursuant to Clause 6 (*Subcontracting*) in respect of the Services unless otherwise requested by the Authority.

14. STAFF

14.1 The Service Provider shall provide training on a continuing basis for all Staff employed or engaged in the provision of the Services in compliance with the Security Policy.

14.2 Throughout the Contract Term the Service Provider shall:

14.2.1 recruit and train adequate numbers of suitable Staff so as to ensure full and due provision of the Services pursuant to the Contract, including the provision of cover for annual and sick leave or other absence, including emergencies.

14.2.2 keep the Authority informed of any industrial relations problems or other impending difficulties likely to affect performance of the Contract, and use its best endeavours to avoid industrial disputes or stoppages involving Staff;

14.2.3 set the pay and conditions of service of Staff, and shall ensure that such pay and conditions are consistent with the ability to recruit and retain sufficient numbers of Staff with the competencies required for each position/grade so as to ensure full and due compliance with the Contract;

14.2.4 pay the salaries and wages (including sick and holiday pay) of Staff and Service Provider's contributions (including National Insurance and any Contracted Out and State Pension Scheme) in respect of its employees. The Service Provider shall also pay all fees and wages of relief personnel and persons acting on its behalf in the provision of the Services; and

14.3 Without prejudice to Clause 4 (*Indemnity*) and Clause 14.2.4, the Service Provider shall at all times indemnify and keep indemnified the Authority against all costs (on a full indemnity basis), claims, expenses, demands and other liabilities suffered or incurred by the Authority either:

14.3.1 during the Contract Term in connection with or arising out of the employment or engagement of any of the Staff by the Service Provider or any Sub-contractor; or

14.3.2 at any time on or after the termination of the Contract (whether on the expiration of the Contract Term or earlier termination of the Contract) in connection with or arising out of the termination of the employment or engagement of any of the Staff employed or engaged by the Service Provider or any Sub-contractor including without limitation where such termination of such employment or engagement is by the Authority and the same occurs: (i) at any time during the period of six (6) months from the date of termination of the Contract; and (ii) such person was employed or engaged by the Service Provider or Sub-contractor at the date of termination of the Contract and the termination of the

employment or engagement of such person was, in the reasonable opinion of the Authority, justified whether on economic grounds or otherwise.

15. TUPE

15.1 Application of TUPE on expiry or termination of the Contract

TUPE may apply at the end of the Contract.

15.2 Disclosure of Information

15.2.1 During the period of eighteen (18) months preceding the expiry of the Contract or at any time as directed by the Authority or after the Authority has given notice to terminate the Contract, the Service Provider shall (and shall ensure that every Sub-contractor and any sub-sub-contractor shall):

(a) fully and accurately disclose to the Authority the information listed in Clause 15.2.2 relating to personnel who are engaged in providing the Services; and

(b) permit the Authority to use the information for such purposes as it may deem appropriate, including but not limited to using the information to inform any Tenderer bidding for any services which are substantially the same or similar services as those provided pursuant to the Contract.

15.2.2 The Service Provider shall disclose the following information in accordance with Clause 15.2.1 in respect of each member of Staff and warrants that so far as the Service Provider is aware this information shall be true, complete and accurate in all material respects:

(a) annual salary and rates of pay band/grade ;

(b) all allowances;

(c) shifts, unsociable hours or other premium rates of pay;

(d) date continuous employment commenced and (if different) the commencement date;

(e) sex and whether registered disabled;

(f) age;

(g) job description and conditioned hours of work;

(h) leave entitlement;

(i) current terms and conditions of employment and benefits, including (Without limitation) medical insurance, life assurance, pension or other retirement benefits, share option schemes and company car schedules), any other letters or documents or collective agreements affecting terms and conditions of employment;

(j) whether any trade union is recognised in respect of the Staff or a group of the Staff;

(k) any performance assessment details; and

(l) any other information concerning the Staff which the Authority may require, acting reasonably.

15.2.3 During the period of six (6) months preceding the expiry of the Contract, or after the Authority has given notice to terminate the Contract, the Service Provider shall enable and assist the Authority and such other persons as the Authority may determine to communicate with and meet those employees and their trade union or other representatives when and where the Authority may determine.

15.2.4 At any time during either the period of six (6) months preceding the expiry of the Contract, or after the Authority has given notice to terminate the Contract (whichever occurs first) the Service Provider shall fully and accurately disclose to the Authority the information set out in Clause 15.2.5 which relates to Staff and shall permit the Authority to use the information to inform the nominated new contractor.

15.2.5 The information which the Service Provider shall provide in accordance with Clause 15.2.4 is as follows:

(a) name (surname, forename, title and initials) and whether registered disabled;

(b) date of birth;

(c) home address;

(d) job title;

(e) work location;

(f) national insurance number and contribution rate;

(g) annual salary and rates of pay band/grade;

(h) shifts, unsociable hours or other premium rates of pay;

(i) conditioned hours of work;

(j) overtime history for preceding twelve (12) month period and whether any member of Staff has waived their right not to work in excess of forty-eight (48) hours per week under the Working Time Regulations 1998;

(k) allowances and bonuses for preceding twelve (12) month period;

(l) tax code;

(m) for pension purposes, the notional reckonable service date;

(n) pensionable pay history for three years to date of transfer;

(o) percentage of any pay currently contributed under Additional Voluntary Contribution arrangements;

(p) any other voluntary deductions from pay;

(q) bank/Building Society account details for payroll purposes;

(r) annual holiday entitlement and accrued holiday entitlement;

(s) details of any active disciplinary/inefficiency/grievance proceedings;

(t) any outstanding or potential contractual, statutory or other liabilities (including in respect of personal injury claims);

(u) all documents, manuals, codes, handbooks, procedure guides, publication agreements (including collective agreements);

(v) current terms of conditions of employment and benefits (including retirement benefits);

(w) any other letters or documents or collective agreements affecting terms and conditions of employment;

(x) whether any trade union is recognised in respect of the Staff or a group of the Staff or whether any trade union has made application for recognition in the previous three (3) years;

(y) any performance assessment details;

(z) existing training or sponsorship commitments;

(aa) outstanding loans/advances on salary or debts;

(bb) those currently on maternity or paternity leave or other long term leave of absence;

(cc) sickness and absence records for the preceding four year period including any records of parental leave taken;

(dd) emergency contact details;

(ee) five (5) months' copy pay slip data;

(ff) cumulative pay for tax and pension purposes;

(gg) cumulative tax paid; and

(hh) any other information concerning the Staff which the Authority may require (acting reasonably).

Where the information provided in terms of Clauses 15.2.2 and 15.2.5 ceases to be true, complete and accurate in all material respects on or before the end of the Contract, the Service Provider shall update the Authority in respect of the same as soon as reasonably practicable.

15.2.6 The Service Provider agrees to indemnify and keep the Authority fully indemnified in respect of any claims, costs, demands and liabilities arising from the provision of information under Clauses 15.2.2 and 15.2.5 hereof.

15.3 **Emoluments and Outgoings**

All salaries and other emoluments (but excluding leave entitlement) including tax and national insurance payments, contributions to retirement benefit schemes, allowances, expenses and bonus and commission payments relating to the Staff and appertaining to the period up to the expiry or termination of the Contract shall be borne by the Service Provider and all necessary apportionments shall be made.

15.4 The Service Provider shall (and shall ensure that every Sub-contractor and any sub-sub-contractor shall) permit the Authority to use the information provided pursuant to Clauses 15.2.2 and 15.2.5 for such purposes as the Authority shall deem appropriate and shall enable and assist the Authority and such other persons as the Authority may determine to communicate with and meet those members of Staff and their trade union or other employee representatives when and where the Authority may determine.

15.5 From the earlier of the date eighteen (18) months prior to the Expiry Date or the date of being given written notice of the Authority's intention to terminate the Contract and until the termination or expiry of the Contract, the Service Provider shall not (and shall ensure that any Sub-contractor and any sub-sub-contractor shall not) amend the rates of remuneration or hours

to be worked by or any other material terms of employment of any member of Staff performing any part of the Services, including holidays, or change the number of Staff or replace any member of Staff or deploy any person other than those already providing the Services under the Contract without the prior written agreement of the Authority, which will not be unreasonably withheld.

15.6 **Indemnities**

15.6.1 The Service Provider shall indemnify the Authority and/or, on demand by the Authority, any supplier of the Authority succeeding the Service Provider as provider of all or any part of the Services (a "**New Supplier**") against any costs, claims, liabilities, losses, demands and expenses suffered or incurred by the Authority and/or a New Supplier in relation to any Staff whose contract of employment has transferred to the Authority or a New Supplier from the Service Provider or a Sub–contractor under TUPE and/or the Directive or otherwise which relate to or arise out of any act or omission by the Service Provider and/or a Sub-contractor or any other event or occurrence in each case in respect of the period prior to the expiry or termination of the Contract for which the Authority and/or a New Supplier is or becomes liable by reason of the operation of TUPE and/or the Directive or any judicial or tribunal decision interpreting TUPE and/or the Directive or otherwise provided that, for the avoidance of doubt, this Clause 15.6 does not relate to any obligation under TUPE and/or the Directive to employ such Staff after the date of expiry or termination of the Contract on the terms and conditions of the employment to which they were entitled immediately prior to such date nor to recognise their periods of continuous employment.

15.6.2 The Service Provider shall indemnify the Authority and/or, on demand by the Authority, any New Supplier against any costs, claims, liabilities, losses, demands and expenses suffered or incurred by the Authority and/or any New Supplier as a result of any failure by the Service Provider and/or any Sub-contractor to comply with any obligations under regulation 11 of TUPE.

16. EQUIPMENT

16.1 Unless otherwise stated in the Contract, the Service Provider shall provide all the material, Equipment and processes used, or proposed to be used for the provision of the Services.

16.2 On the request of the Contract Administrator, the Service Provider shall provide proof to the Authority's satisfaction that any materials, Equipment and processes used, or proposed to be used, are fit for purpose.

16.3 Any Equipment supplied by the Service Provider for the purpose of the Contract, and funded by the Authority, shall vest in and become the absolute property of the Authority and the Service Provider shall possess and use such equipment for the purpose of the Contract only.

16.4 The Service Provider shall maintain, repair, insure and, if necessary, replace all Equipment referred to in Clause 16.2 ensuring that all Equipment is in a safe, serviceable and clean condition at all times but shall not acquire any ownership or other propriety interest of whatever nature in such equipment.

16.5 Any Equipment supplied by the Service Provider for the purposes of the Contract, and not funded in whole or in part by the Authority, shall be the entire risk and responsibility of the Service Provider.

16.6 The loss or destruction for any reason of any materials, Equipment and processes used, or proposed to be used by the Service Provider for the purpose of the Contract shall not relieve the Service Provider of its obligation to supply the Services in accordance with this Contract.

17. SECURITY

17.1 The Service Provider shall take all measures necessary to comply with the provisions of any enactment relating to security, which may be applicable to the Service Provider in the performance of the Services.

17.2 The Service Provider shall comply, and shall procure the compliance of its Staff, with the Security Policy.

17.3 The Authority shall notify the Service Provider of any changes or proposed changes to the Security Policy.

17.4 The minimum security level requirements for contracted services is now Counter Terrorism Clearance (CTC).

17.5 If the Service Provider believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a change in accordance with Schedule L *(Change Control Procedures*) which is reasonable. In doing so, the Service Provider must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any reasonable changes to the prices and rates payable under Schedule F *(Payment Mechanism*) may then be agreed in accordance with the Change Control Procedure.

17.6 Until and/or unless a reasonable change to the prices and rates payable under Schedule F (*Payment Mechanism*) is agreed by the Authority pursuant to Clause 17.5 the Service Provider shall continue to perform the Services in accordance with its existing obligations.

17.7 The Service Provider shall conduct an annual self-assessment of its compliance with the Security Policy, reporting such findings to the Authority's Representative in the manner requested by the Authority's Representative.

17.8 The Authority may make available a particular self-assessment tool to assist the Service Provider in conducting the self-assessment referred to in 17.7 and if the Authority does so, the Service Provider shall use that self-assessment tool.

18. MONITORING, INSPECTION AND ACCESS

18.1 The Authority shall monitor the performance of the Services by the Service Provider in accordance with the provisions of Schedule D (*Service Specification*).

18.2 The Authority may increase the extent to which this monitoring is conducted if the quality of the Services is degraded in any way. The Authority shall give the Service Provider prior notification of its intention to increase the level of monitoring.

18.3 The Service Provider shall co-operate, and shall procure that its Sub-contractors co-operate, with the Authority in carrying out the monitoring referred to in Clause 18.2 at no additional charge to the Authority.

19. CONSULTATIONS

19.1 Representatives of each of the Service Provider and the Authority shall attend meetings with the frequency noted in Schedule D (*Service Specification*) to discuss the Service Provider's compliance with and performance of its obligations under this Contract.

20. SERVICE IMPROVEMENTS AND COST SAVINGS

20.1 The Service Provider shall co-operate and contribute to the process for identifying and implementing improvements to the Services as set out in Schedule H (*Innovation & Partnership Agreement)* and Schedule O (*Service Improvement*).

20.2 In consideration of savings made as a result of the process referred to in Clause 20.1 above, the Authority shall make payments to the Service Provider in accordance with the provisions of Schedule F (*Payment Mechanism*).

20.3 Any sums payable under Clause 20.2 shall be agreed in advance by the Authority and shall become due at such time as the relevant saving(s) has been realised, subject to the limits set out in Schedule G (*Performance Evaluation & Service Unavailability*).

PART 4 - FINANCIAL MATTERS

21. PRICE

21.1 In consideration for the Services provided by the Service Provider, the Authority shall make payments to the Service Provider in accordance with the terms of Schedule F (*Payment Mechanism)*.

21.2 The payment by the Authority to the Service Provider of the applicable rates and prices shall, together with any sums determined pursuant to Clause 9 (*Changes*), be the total amount payable by the Authority for the performance by the Service Provider of its obligations under the Contract.

21.3 Mobilisation Costs shall be payable in accordance with Schedule B (*Mobilisation and Permit to Operate*) and Schedule F (*Payment Mechanism*).

22. VARIATION OF THE PRICES AND RATES PAYABLE UNDER SCHEDULE F (PAYMENT MECHANISM)

22.1 Except as provided in Clause 9 (*Changes)* and Schedule F (*Pricing Mechanism*) the prices and rates payable in respect of the Services shall be fixed and shall not be subject to adjustment throughout the Contract Term.

23. PERFORMANCE MANAGEMENT

23.1 The Service Provider's performance will be monitored in accordance with the provisions of Schedule D (*Service Specification) and Schedule G (Performance Evaluation and Service Unavailability).*

23.2 In case of any shortfalls in the Services, Service Credits will accrue in accordance with the provisions of Schedule F (*Payment Mechanism*).

23.3 Any accrual of Service Credits shall be without prejudice to the Authority's rights under Clauses 27 (*Default by the Service Provider*) and 30 (*Termination for Default*).

23.4 Without prejudice to the Authority's rights under Clause 30 (*Termination for Default*), the amount payable by the Authority shall be reduced in the event that Service Credits accrue in accordance with the provisions of Schedule F (*Payment Mechanism*).

23.5 The Service Provider shall promptly notify the Authority in writing of any event or circumstance which gives rise to a Service Credit under Schedule F (*Payment Mechanism*) and shall provide reasonable details of the event or circumstance.

23.6 Any disputes relating to this Clause 23 shall be dealt with in accordance with the procedure set out in Clause 55 (*Dispute Resolution*).

24. COMPENSATION EVENTS

24.1 On the occurrence of a Compensation Event, the provisions of this Clause 24 shall apply.

Charter Flights

24.2 If at any time prior to the scheduled time of departure of a Charter Flight :

24.2.1 the aircraft becomes unavailable or unserviceable;

24.2.2 the nominated Carrier becomes insolvent and ceases flight operations;

24.2.3 the Service Provider becomes aware that the aircraft is delayed en-route to the extent such that the Removal cannot occur within four hours of the scheduled time of departure; or

24.2.4 if an aircraft is diverted from a planned route,

then such an event shall constitute a "Compensation Event" and the provisions of Clauses 24.3 to 24.10 (inclusive) below shall apply to it.

24.3 If the Compensation Event defined in Clause 24.2.1 above occurs then:

24.3.1 the Service Provider undertakes to use reasonable endeavours to find a suitable substitute aircraft within a reasonable time after the Service Provider becomes aware of such unavailability or unserviceability; and

24.3.2 any additional costs (which for the avoidance of doubt shall include and be in addition to the cost of such Charter) incurred by the Service Provider and the Authority in obtaining such suitable substitute aircraft will be borne by the Service Provider.

24.4 If the Service Provider is unable to find a suitable substitute aircraft in accordance with Clause 24.3.1 above within four hours after the scheduled time of departure, the Service Provider shall, except where such inability is for reasons outside the Service Provider's control (which shall specifically include those matters covered under Force Majeure), make a Compensation Payment to the Authority in accordance with the provisions of Clause 24.9 and 24.10 below.

24.5 If the Compensation Event defined in Clause 24.2.2 above occurs:

24.5.1 the Service Provider undertakes to use reasonable endeavours to find within a reasonable time after the Service Provider becomes aware of the nominated Carrier becoming insolvent and ceasing flight operations a suitable substitute aircraft; and

24.5.2 any additional costs (which for the avoidance of doubt shall include and be in addition to the cost of such Charter) incurred by the Service Provider and the Authority in obtaining such suitable substitute aircraft will be borne by the Service Provider.

24.6 If the Service Provider is unable to find a suitable substitute aircraft within four hours after the scheduled time of departure, the Service Provider shall, except where such inability is for reasons outside the Service Providers control (which shall specifically include those matters covered under Force Majeure), make a Compensation Payment to the Authority in accordance with the provisions of Clause 24.9 and 24.10 below.

24.7 If the Compensation Event defined in Clause 24.2.3 above occurs then:

24.7.1 the Service Provider undertakes to use reasonable endeavours to find a suitable substitute aircraft within a reasonable time after the Service Provider becomes aware of such delay; and

24.7.2 any additional costs (which for the avoidance of doubt shall include and be in addition to the cost of such Charter) incurred by the Service Provider and the Authority in obtaining such suitable substitute aircraft will be borne by the Service Provider.

24.8 If the Service Provider is unable to find a suitable substitute aircraft within four hours after the scheduled time of departure, the Service Provider shall, except where such inability is for reasons outside the Service Providers control (which shall specifically include those matters

covered under Force Majeure), make a Compensation Payment to the Authority in accordance with the provisions of Clause 24.9 and 24.10 below.

24.9 In the event that the Service Provider is unable to procure a suitable substitute aircraft in accordance with the provisions of Clauses 24.4, 24.6 and/or Clause 24.8 above than a Compensation Payment shall apply.

24.10 If the Compensation Event defined in Clause 24.2.4 above occurs then any additional costs (which for the avoidance of doubt shall include and be in addition to the cost of such Charter) incurred by the Service Provider shall be borne by the Service Provider and a Compensation Payment shall apply.

Scheduled Flights

24.11 If at any time prior to a Scheduled Flight the Service Provider cancels a ticket for reasons other than the Removal being cancelled by the Authority, then such an event shall constitute a "Compensation Event" and the provisions of this Clause 24 shall apply to it.

24.12 If the Compensation Event defined in Clause 24.11 occurs then the Service Provider shall provide an alternative ticket. This shall require the prior approval of the Authority and the cost of the new ticket together with all associated costs incurred by the Service Provider shall be borne by the Service Provider and a Compensation Payment shall apply.

Calculation of the Compensation Payment

24.13 The amount of any Compensation Payment payable under this Clause shall be that sum, the amount of which shall represent the reasonable and properly evidenced costs of the Authority which are directly attributable to the relevant Compensation Event, including (without limitation):

24.13.1 the costs of care of the relevant Detainee including accommodation costs;

24.13.2 the additional costs of the Escorts;

24.13.3 detention costs;

24.13.4 expenses incurred by the Authority;

24.13.5 losses incurred by the Authority; or

24.13.6 any other financial liabilities incurred by the Authority.

Procedure for Dealing with a Compensation Payment

24.14 In the event that a Compensation Payment is incurred, the Contract Administrator will advise the Named Representative of the Service Provider as soon as reasonably practicable, The Contract Administrator and the Named Representative shall meet as soon as practicable to assess the amount of the relevant Compensation Payment. The Contract Administrator will advise the method of assessment to be applied. If actual cost data are not available at the time of assessment, the rates provided in the Best Value Process shall be applied.

24.15 The Authority shall provide a detailed breakdown to confirm the costs, expenses, losses and other liabilities it has suffered which have given rise to such Claim.

24.16 A Compensation Payment shall be due in the next Contract Month following the occurrence of the event and will be made in accordance with Schedule F (*Payment Mechanism*).

24.17 The time for and method of payment of Compensation Payments shall be as set out in Schedule F (*Payment Mechanism*).

24.18 In the event that the Parties are unable to agree the amount of any Compensation Payment the provisions of Clause 55 (*Dispute Resolution*) shall apply.

25. VALUE ADDED TAX

25.1 All amounts stated to be payable by the Authority in respect of the Services pursuant to and in accordance with this Contract shall be exclusive of any Value Added Tax properly chargeable on any amount. The Authority shall pay to the Service Provider any such Value Added Tax on receipt from the Service Provider of a valid tax invoice in respect of those Services.

25.2 The Service Provider shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time (whether before or after the making of a demand pursuant to the indemnity hereunder) in respect of the Service Provider's failure to account for or to pay any VAT relating to payments made to the Service Provider under this Contract. Any amounts due as a result of this Clause shall be paid in cleared funds by the Service Provider to such bank or building society as the Authority may direct not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Authority.

26. AMOUNT DUE AND SET-OFF

26.1 In addition and without prejudice to any rights of set-off the Authority may have as a matter of law or otherwise, whenever any sum or sums of money shall be recoverable from or payable by the Service Provider under the Contract, the same may be set off against, by applying the same in or towards satisfaction of, any sum then due, or which at any time thereafter may become due, to the Service Provider under the Contract or under any other contract which the Service Provider has with the Authority or with the Crown so that the sum due to the Service Provider shall be the net amount after the exercise of any such set-off.

26.2 The Service Provider shall pay any sum or sums of money that are recoverable from or payable by the Service Provider to the Authority unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the Authority may direct within 30 days of of being given notice to make payment by the Authority.

PART 5 - DEFAULT AND TERMINATION

27. DEFAULT BY THE SERVICE PROVIDER

27.1 Without prejudice to any right of the Authority to claim damages or to allocate Service Credits in respect of any breach of the Contract by the Service Provider and without prejudice to any other rights of the Authority to terminate the Contract, each and any of the following events shall constitute an Event of Default entitling the Authority, if it so elects, to terminate the Contract in accordance with the terms hereinafter set out:

27.1.1 (without limitation to any other Event of Default) any failure by the Service Provider to perform, keep, observe, meet or comply with any of the terms of the Contract where:

(a) such failure has a material effect on the performance of any part of the Contract;

(b) such failure either by itself or in addition to any other failure or failures (whether or not remedied), has occurred persistently and which occurs again following notice to the Service Provider that the continued occurrence or reoccurrence might lead to termination of the Contract; or

(c) such failure either by itself or in addition to any other failure or failures (whether or not remedied), casts in the Authority's opinion serious doubt on the competence or suitability of the Service Provider to provide the Services; or

27.1.2 failure by the Service Provider to comply with the provisions of Clause 6 (*Sub-contracting*) and/or its monitoring obligations under Clause 18 (*Monitoring, Inspection and Access*), Schedule D (*Service Specification*) and Schedule G (Performance Evaluation and Service Unavailability);

27.1.3 any failure by the Service Provider to maintain or procure insurances in accordance with its obligations under Clause 5 (*Insurance*) or to make payment in accordance with Clause 4 (Indemnity) where such failure is material and has not been remedied in full within thirty (30) days of notice to the Service Provider; or

27.1.4 if any statement, representation or warranty contained in the Contract or in any documentation furnished pursuant to the Contract or in connection with the Contract (including without limitation the Guarantee) is incorrect in any material respect when made or deemed to be made; or

27.1.5 if:

(a) a Court makes an order that the Service Provider or the Guarantor be wound up; or

(b) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of the creditors of the Service Provider or Guarantor; or

(c) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) of the Service Provider or Guarantor or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or

(d) any receiver, manager or similar officer is appointed in respect of the Service Provider or the Guarantor or any part of its assets (other than for the purpose of a bona fide internal reorganisation or amalgamation consented to by the Authority) or the Service Provider or the Guarantor seeks any other form of protection from its creditors in any other insolvency jurisdiction; or

(e) a meeting of creditors of the Service Provider or the Guarantor passes, or a meeting of any class of shareholders of the Service Provider or the Guarantor is convened for the purposes of considering, a resolution for the winding-up of the Service Provider or the Guarantor (other than as part of, and exclusively for the purposes of a bona fide internal reorganisation, reconstruction or amalgamation consented to by the Authority); or

(f) a petition is made either for the appointment of an administrator or an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given in respect of the Service Provider or the Guarantor is presented; or

(g) the Service Provider or Guarantor become insolvent within the meaning of section 123 of the Insolvency Act 1986; or

(h) a petition is presented or other steps are taken for the purposes of the winding up of the Service Provider or the Guarantor (other than for the purposes of a bona fide internal reorganisation or amalgamation consented to by the Authority) and any such petition is not, or such other steps are not, discharged or withdrawn within thirty (30) days of receiving notice of such petition; or

(i) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986;

(j) where the Service Provider or Guarantor or is an individual or partnership, any event analogous to those listed in limbs (a) to (m) (inclusive) occurs in relation to that individual or partnership;

(k) one or more of the events which give the Authority the right to terminate the Contract in Schedule P (*Financial Distress)* occurs;

(l) the Service Provider fails to comply with the financial reports and audit requirements in Schedule Q (*Financial Reports and Audits*);

(m) the Service Provider fails to comply with the environmental requirements set out in Clause 63 (Environmental Requirements);

(n) the Service Provider fails to comply with the anti-slavery and human trafficking requirements set out in clause 65 (Anti-Slavery and Human Trafficking); or

(o) any event analogous to those listed in limbs (a) to (m) (inclusive) occurs in relation to the Service Provider and Guarantor under the law of any applicable jurisdiction;

27.1.6 if distress or execution is levied against, or an encumbrancer takes possession of, any of the Service Provider's or Guarantor's assets and is not paid or discharged within twenty-eight (28) days, or a judgment against the Service Provider's or the Guarantor remains unsatisfied for more than twenty-eight (28) days, except in either case where the Service Provider or the Guarantor has lodged a bona fide appeal against such levy or judgment; or

27.1.7 if the Service Provider or the Guarantor fails to pay any amount due from it hereunder or under the Guarantee within fifteen (15) days of a written demand which refers to either a previous invoice or other written demand for the same sum which is unpaid (unless the relevant amount is disputed in good faith); or

27.1.8 if a change of control of the Service Provider (within the meaning of Clause 32 (*Change of Control*)) occurs without the prior written consent of the Authority or as otherwise permitted in Clause 32.2; or

27.1.9 if the Service Provider fails to obtain the Permit to Operate by the Commencement of Full Operations Date for whatsoever reason; or

27.1.10 if the Service Provider accrues Service Credits in excess of 15% of the Monthly Service Charge in three consecutive months or four times in any rolling twelve-month period]; or.

27.1.11 the Guarantee is not (or is claimed by the Guarantor thereunder not to be) in full force and effect.

28. AUTHORITY'S RIGHTS ON TERMINATION

Any exercise by the Authority of its rights pursuant to Clause 27 (*Default by the Service Provider*) above or any other right to terminate the contract shall be without prejudice to any other rights and remedies the Authority may have against the Service Provider including, without limitation, rights to claim damages in respect of any breach of the Contract by the Service Provider and any other rights under or in respect of the Contract that may have arisen or be related to anything that may have arisen prior to any such exercise by the Authority (whether or not any formal claim may have been made by the Authority at the time of such exercise in respect of any such rights). Subject to the foregoing, the exercise of a right of termination of the Contract shall discharge both Parties from their obligations thereunder.

29. RECTIFICATION

29.1 Where an Event of Default has occurred by reason of any matter occurring which is referred to in Clause 27.1.1(a) the Authority shall (if the breach or the matter giving rise to the breach is

capable of remedy) give notice to the Service Provider in writing (the "**Rectification Notice**"), and the Service Provider shall propose a programme of rectification in relation to such an Event of Default. If no such proposal for rectification is received by the Authority within twenty (20) days of the date of the Rectification Notice the Authority may proceed to terminate the Contract in accordance with Clause 30 (*Termination for Default*) unless such Event of Default has been rectified within the said period of twenty (20) days in which case no further action will be taken and the Contract will continue.

29.2 Where a proposal for rectification is received by the Authority within twenty (20) days of the date of the Rectification Notice, and is approved by the Authority (such approval not to be unreasonably withheld in the case of a breach which is capable of remedy) the Service Provider shall carry out such approved rectification of the relevant event of Default within sixty (60) days from the date of the Rectification Notice, save that the Authority may shorten or extend the said period if it thinks fit. At the expiry of the sixty (60) days (or any such extended time) if the Service Provider has failed to rectify the Event of Default to the reasonable satisfaction of the Authority, the Authority may proceed to terminate the Contract in accordance with Clause 30 (*Termination for Default*). If at the expiry of such period the Service Provider has so rectified the Event of Default, no further action will be taken and the Contract will continue.

29.3 If the Authority does not approve the proposal for rectification, the Authority may proceed to terminate the Contract in accordance with Clause 30 (*Termination for Default*).

29.4 The Authority shall inform the Service Provider of its decision to approve or reject any rectification proposal as soon as reasonably practicable following receipt by the Authority of the same and in any event within fourteen (14) days of the proposal's submission to the Authority.

29.5 Approval by the Authority of any proposal for a programme of rectification shall not relieve the Service Provider of any continuing responsibility to achieve the Services, or remedy any failure to provide the Services, and no estoppels or waiver shall arise from any such Approval by the Authority.

30. TERMINATION FOR DEFAULT

30.1 Where an Event of Default has occurred and after the Service Provider's rights (if any) under Clause 29 *Rectification*) have expired, the Authority may proceed to terminate the Contract by giving notice in writing to the Service Provider, receiver, liquidator or any person in whom the Contract may be vested (the "**Termination Notice**") to expire thirty (30) days from the date of the Termination Notice (or, in the case of an Event of Default under Clause 27.1.1(a), if sooner, thirty (30) days from the date of the Rectification Notice) or such longer period as the Authority shall specify in the Termination Notice (the "**Termination Notice Period**").

30.2 Where:

30.2.1 an Event of Default has occurred other than by reason of any matter occurring which is referred to in Clause 30.3; and

30.2.2 after a Termination Notice has been served but prior to the expiry of the Termination Notice Period the Authority is satisfied that such Event of Default and each other Event of Default (if any) has been remedied and the Authority is satisfied that the default or defaults that gave rise to such Event of Default and the default or defaults that gave rise to any other Event of Default are unlikely to recur,

then the Termination Notice shall be revoked; provided that the Authority may, if in its absolute discretion it so elects but shall not be obliged to, revoke more than two Termination Notices in aggregate pursuant to this Clause 30.

30.3 The Service Provider acknowledges and agrees that, unless the Authority decides otherwise, each of the failures set out in Clauses 27.1.5(a) and 27.1.10 and 27.1.11, shall be a breach that is incapable of remedy for the purposes of Clause 30.2.

30.4 Following the issuance of a Termination Notice, the Authority or any Person nominated by the Authority shall (if it appears to the Authority that the Services being provided under the Contract are reasonably likely to become materially worse during the Termination Notice Period) have the right (but not the obligation) forthwith upon written notice to the Service Provider to perform as a Sub-contractor of the Service Provider such of the obligations of the Contract as are imposed upon the Service Provider as are reasonably necessary to ensure that the Services provided by the Service Provider under the Contract are maintained at no worse level than was pertaining at the date upon which the Termination Notice was served.

30.5 The Authority (or as the case may be any such Person nominated by the Authority) shall be entitled to charge a fee for any of such services properly provided by it in exercise of the rights under Clause 30.4 for the period from the date upon which it first provides such services to the earlier of the date upon which it ceases to provide such services or the Termination Date of 1.05 times the amount certified by the Authority (or as the case may be any such Person nominated by the Authority) as being the cost to it of performing such services (which fee shall be payable from time to time in arrears within thirty (30) days after submission by the Authority (or as the case may be any such Person nominated by the Authority) of an invoice therefor). For the avoidance of doubt, the Authority shall, in accordance with Clause 26 (*Amount Due and Set-Off*), but without limitation to the provisions thereof, be entitled to set off all such amounts payable to the Authority (or as the case may be any such Person nominated by the Authority) against any amounts payable to the Service Provider from the Authority under the Contract.

30.6 The Service Provider shall fully and effectively indemnify the Authority against all Losses incurred by the Authority (whether arising directly or indirectly) from the termination of the Contract pursuant to this Clause 30, including, without limitation, all costs of re-tendering the Contract (or any part of it) and any additional cost of procurement above that which would have been paid had the Service Provider not breached the terms of the Contract.

30.7 The provisions of Clauses 30.4 to 30.6 are without prejudice to any other rights or remedies which the Authority may possess and nothing in this Contract shall prejudice the right of the Authority to recover any amount outstanding at the time of termination.

31. TERMINATION FOR CONVENIENCE

31.1 Service of Termination Notice for Convenience

31.1.1 The Authority may terminate this Contract at will at any time upon giving not less than sixty (60) days' notice in writing to the Service Provider ("**Convenience Termination Notice**").

31.1.2 In the event of termination under Clause 31.1.1 above, compensation shall be payable in accordance with Clause 34 (*Payment for Termination*).

31.2 Authority Rights Prior to Expiry

31.2.1 On service of a Convenience Termination Notice the Authority shall at any time before the expiry of the notice period be entitled to direct the Service Provider to complete in accordance with this Contract all or any of the Services, or any part or component thereof.

31.2.2 Any powers exercisable pursuant to Clause 31.2.1 shall be exercised as soon as reasonably practicable.

32. CHANGE OF CONTROL

32.1 The Service Provider shall notify the Authority immediately in writing and as soon as the Service Provider is aware (or ought reasonably to be aware) that it is anticipating, undergoing, undergoes or has undergone a Change of Control and provided such notification does not contravene any law.

32.3 The Service Provider shall ensure that any notification made pursuant to Clause 32.1 shall set out full details of the Change of Control including the circumstances suggesting and/or explaining the Change of Control.

32.4 The Authority may terminate this Contract by issuing a Termination Notice under this Clause to the Service Provider within six (6) Months of:

(a) being notified in writing that a Change of Control is anticipated or in contemplation or has occurred; or

(b) where no notification has been made, the date that the Authority becomes aware that a Change of Control is anticipated or is in contemplation or has occurred,

but shall not be permitted to terminate where the Authority has given written consent prior to the Change of Control. Such consent as may be given by the Authority can be made subject to conditions.

33. FORCE MAJEURE

33.1 If a Force Majeure Event arises during the Contract Term which directly causes the Service Provider to be unable to comply with its obligations hereunder, the Service Provider shall give notice thereof to the Authority.

33.2 Any failure or delay by the Service Provider in performing its obligations under this Contract which results from a failure or delay by an employee, agent, consultant, Sub-Contractor or service provider of the Service Provider shall be regarded as due to a Force Majeure Event only if that agent, consultant, Sub-Contractor or service provider is itself impeded by a Force Majeure Event from complying with an obligation to the Service Provider.

33.3 The Service Provider shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Service Provider and any action the Service Provider proposes to take to overcome or mitigate its effect, such action to include any steps that need to be taken in order to comply with Good Industry Practice.

33.4 The Service Provider and the Authority may, if they so choose, agree such terms as are appropriate for the continued performance of this Contract (including, if such terms are agreed, any appropriate variation to the applicable prices and rates payable under Schedule F (*Payment Mechanism*), and such terms shall be agreed in accordance with Clause 46 (*Authority to Commit and Variation*).

33.5 If no such terms are agreed within sixty (60) days of the commencement of the Force Majeure Event, and such event is continuing or its consequence remain such that the Service Provider is unable to comply with its obligations, the parties hereby agree that both parties shall be excused performance of any and all obligations imposed upon them and this Contract shall thereupon terminate (unless otherwise agreed).

34. PAYMENT FOR TERMINATION AND EXPIRY

34.1 In the event of termination pursuant to Clause 31 (*Termination for Convenience*) the Authority shall pay to the Service Provider:

34.1.1 any amount which is undisputed and has fallen due pursuant to Schedule F (*Payment Mechanism)* at the date of Termination but which has not yet been paid PROVIDED THAT all relevant adjustments which have to be made in accordance with the Schedule shall be taken into account when calculating such amounts including (without limitation) any applicable Service Credits, Compensation Payments and Settling Payments (as defined in Schedule F (*Payment Mechanism*)).

34.1.2 a sum equal to one-twelfth of the Annual Service Charge.

34.2 In the event of expiry of the Contract the Authority shall pay any amount which is undisputed and has fallen due pursuant to Schedule F (*Payment Mechanism)* at the date of termination but which has not yet been paid PROVIDED THAT all relevant adjustments which have to be made in accordance with the Schedule shall be taken into account when calculating such amounts including (without limitation) any applicable Service Credits, Compensation Payments and Settling Payments (as defined in Schedule F (*Payment Mechanism*)).

34.3 In the event of termination under Clause 30 (*Termination for Default*) or 35 (*Corrupt Gifts and Payments*) the Authority shall pay to the Service Provider any amount which is undisputed and has fallen due pursuant to Schedule F (*Payment Mechanism)* but has not yet been paid PROVIDED THAT all relevant adjustments which have to be made in accordance with Schedule F (*Payment Mechanism*) shall be taken into account when calculating such amounts including (without limitation) any applicable Service Credits, Compensation Payments and Settling Payments (as defined in Schedule F (*Payment Mechanism*)).

34.4 The Service Provider shall not take or refrain from taking any action in relation to its contractual arrangements (including, without limitation, pursuant to any Sub-contract) or otherwise that is motivated primarily by a desire to increase the payment that would be due from the Authority on a termination of the Contract rather than by other considerations.

34.5 The Authority shall not be liable to make any payments under this clause and clause 30 (Termination for Default) and 31 (Termination for Convenience) if the payments relate to sums that are:

(a) claimable under insurance held by the Service Provider, and the Service Provider has failed to make a claim on that insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or

(b) when added to any sums paid or due to the Service Provider under this Contract, exceeds the total sum that would have been payable to the Service Provider if this Contract had not been terminated.

34.6 Save as otherwise expressly provided in this Contract:

(a) termination of this Contract shall be without prejudice to any rights, remedies or obligations accrued under this Contract prior to termination and nothing in this Contract shall prejudice the right of the Authority to recover any amount outstanding at the time of such termination; and

(b) termination of this Contract shall be without prejudice to any other provision of this Contract which expressly or by implication is to be performed or observed by the Service Provider notwithstanding termination.

35. CORRUPT GIFTS AND PAYMENTS

35.1 The Service Provider represents and warrants that neither it, nor to the best of its knowledge any Service Provider Party, has at any time prior to the Commencement Date:

35.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

35.1.2 been listed by any government department, agency or Regulatory Body or Relevant Regulatory Authority as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

35.2 The Service Provider shall not during the Contract Term

35.2.1 commit a Prohibited Act; and/or

35.2.2 do or suffer anything to be done which would cause the Authority or any of the Authority Party to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

35.3 The Service Provider shall during the Contract Term:

35.3.1 establish, maintain and enforce, and require that any Service Provider Party establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

35.3.2 keep appropriate records of its compliance with its obligations under Clause 35.3.1 and make such records available to the Authority on request;

35.3.3 if so required by the Authority, within twenty (20) Working Days of the Commencement Date, and annually thereafter, certify to the Authority in writing that the Service Provider and all persons associated with it or any Service Provider Party or other persons who are supplying the Services in connection with this Contract are compliant with the Relevant Requirements. The Service Provider shall provide such supporting evidence of compliance as the Authority may reasonably request; and

35.3.4 have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Authority on request) to prevent it and any Service Provider Party or any person acting on the Service Provider's behalf from committing a Prohibited Act.

35.4 The Service Provider shall immediately notify the Authority in writing if it becomes aware of any breach of Clause 35.1 and 35.2, or has reason to believe that it has or any of the Service Provider Party have:

35.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

35.4.2 been listed by any government department, agency, Regulatory Body or Relevant Regulatory Authority as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or

35.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person or Party directly or indirectly connected with this Contract has committed or attempted to commit a Prohibited Act.

35.5 If the Service Provider makes a notification to the Authority pursuant to Clause 35.4, the Service Provider shall respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with Schedule Q (Financial Reports and Audit Rights).

35.6 If the Service Provider breaches Clause 35 the Authority may:

35.6.1 give notice requiring the Service Provider to remove from performance of this Contract any Service Provider Party whose acts or omissions caused the Service Provider to breach Clause 35 and requiring the Service Provider to pay any costs, expenses, losses or other financial liabilities incurred by the Authority as a result of the breach; and/or

35.6.2 immediately terminate this Contract for Default;

35.7 Any notice served by the Authority under Clause 35.4 shall specify the nature of the Prohibited Act, the identity of the Party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which this Contract shall terminate).

35.8 Any dispute relating to this Clause 35 (other than in respect of Clause 35.3.3) may be referred by either party to dispute resolution in accordance with Clause 55 (*Dispute Resolution*), except that the arbitrator shall be a Queen's Counsel nominated by the Chairman of the Bar Council, who shall determine any issue on the balance of probabilities.

36. ARRANGEMENTS ON TERMINATION AND EXPIRY

36.1 Upon the expiry or termination of the Contract, for whatsoever reason, the Service Provider shall co-operate with the Authority to such extent as may be required for a period of up to nine (9) months from the date of termination or expiry, or such period to be determined solely by the Authority, to ensure an orderly and efficient transition from the provision of the Services by the Service Provider to the provision of services similar to the Services by the Authority or some other person in accordance with Schedule N (*Demobilisation*) .

36.2 The Service Provider shall use its best endeavours to ensure that any Service Provider Party engaged to perform obligations of the Contract complies with this Clause. The Authority shall reimburse to the Service Provider and the relevant Service Provider all reasonable costs and expenses incurred in satisfying the provisions of this Clause, such amount of reimbursement being subject to reduction in respect of any amounts outstanding from the Service Provider or any relevant Service Provider Party to the Authority.

36.3 Save as otherwise expressly provided in this Contract:

36.3.1 termination or expiry of this Contract in whole or in part shall be without prejudice to any accrued rights and obligations under this Contract as at the date of termination; and

36.3.2 termination or expiry of this Contract shall not affect the continuing rights and obligations of the Service Provider and the Authority under Clauses **Error! Reference source not found.** (Parent Company *Guarantee*), 44 (*Indemnity*),]5 (*Insurance*), 7 (*Assignment and Novation*), 15 (*TUPE*), 21 (*Price*), 25 (*Value Added Tax*), 28 (*Authority's Rights on Termination*), 30 (*Termination for Default*), 31 (*Termination for Convenience*), 33 (*Force Majeure*), 34 (*Payment for Termination*), 35 (*Corrupt Gifts and Payments)*, 36 (*Arrangements on Termination*), 38 (*Public Relations and Publicity*), 39 (*Confidential Information, Use of Documents and Freedom of Information*), 40 (*Intellectual Property Rights*), 42 (*Service Provider's Records*), 43 (*Service Provider's General Warranties*), 47 (*Service of Notices*), 49 (*Law of the Contract and Jurisdiction*), 55 (*Dispute Resolution*) or under any other provision of this Contract which is expressed to survive termination or expiry or which is required to give effect to such termination or expiry or the consequences of such termination.

37. NOTICE OF DEFAULT EVENTS

37.1 Without prejudice to the generality of Clause 37.2, the Service Provider shall give the Authority written notice of any circumstances which may entitle a court or a creditor to appoint a liquidator, receiver, manager, administrator or equivalent and/or which may entitle a court otherwise than for the purpose of a bona fide reconstruction or amalgamation previously approved in writing by the Authority, to make a winding-up order, including without limitation any proposal to resolve that the Service Provider be wound up immediately it becomes aware of such proposal;

37.2 The Service Provider shall notify the Authority in writing immediately it has knowledge of any event which constitutes an Event of Default or an event which, with the giving of notice and/or lapse of time and/or making of any determination, would constitute an Event of Default.

PART 6 - MISCELLANEOUS

38. PUBLIC RELATIONS AND PUBLICITY

38.1 The Authority reserves the right to publish information about the performance of the Contract and/or any other information as it may deem appropriate from time to time, other than in respect of any payments made in accordance with Schedule F (*Payment Mechanism*), which it may only

publish in response to enquiries from Parliament, its members and officers and any Person conducting an enquiry on behalf of or appointed by the Authority, whether or not the enquiry is statutory, and to enquiries legitimately made by Persons acting in the public interest.

38.2 The Service Provider shall not by itself, or through any Service Provider Party or its staff communicate with representatives of the press, television, radio or other communications media on any matter concerning the Contract without the prior written approval of the Authority.

39. CONFIDENTIAL INFORMATION, USE OF DOCUMENTS & FREEDOM OF INFORMATION

39.1 The Service Provider will note and comply with the following:

39.1.1 the provisions of the Official Secrets Act 1911-1989; and

39.1.2 section 182 of the Finance Act 1989.

39.2 The Service Provider shall take all reasonable steps, by instruction, display of notices or other appropriate means, to ensure that all persons including Staff or any Sub-contractor employed on any work in connection with the Contract have notice that these statutory provisions apply to them and will continue to apply to them after the completion or earlier termination of the Contract and after termination of their employment.

39.3 The parties agree that provisions of this Contract shall, subject to Clause 39.4 below, not be treated as and may be disclosed without restriction.

39.4 Clause 39.3 above shall not apply to provisions of this Contract designated as Commercially Sensitive Information and listed in Schedule I (*Commercially Sensitive Information*) which shall, subject to Clause 39.6, be kept confidential for the periods specified in that Part.

39.5 Except to the extent set out in this Clause or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:

39.5.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and

39.5.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

39.6 Clause 39.4 and Clause 39.5, shall not apply to:

39.6.1 any disclosure of information that is reasonably required by persons engaged in the performance of its obligations under the Contract for the performance of those obligations;

39.6.2 any matter which a Party can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of this Contract;

39.6.3 any disclosure to enable a determination to be made under Clause 55 (*Dispute Resolution*) or in connection with a dispute between the Service Provider and any of its Sub-contractors;

39.6.4 any disclosure which is required pursuant to any statutory, legal (including any order of a court of competent jurisdiction), or Parliamentary obligation placed upon the Party making the disclosure or the rules of any stock exchange or governmental or regulatory authority having the force of law, or if not having the force of law, compliance with which is in accordance with the general practice of persons subject to the stock exchange or governmental or regulatory authority concerned;

39.6.5 any disclosure of information which is already lawfully in the possession of the receiving Party, prior to its disclosure by the disclosing Party;

39.6.6 any disclosure of information by the Authority to any other department, office or agency of the Government or their respective advisors or to any person engaged in providing services to the Authority for any purpose related to or ancillary to the Contract; or

39.6.7 any disclosure for the purpose of:

(a) the examination and certification of the Authority's or the Service Provider's accounts; or

(b) any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;

(c) complying with a proper request from either Party's insurance adviser, or insurer on placing or renewing any insurance policies; or

(without prejudice to the generality of Clause 39.6.4) compliance with the FOIA, the Code of Practice on Access to Government Information and/or the Environmental Information Regulations,

provided that, for the avoidance of doubt, neither Clause 39.6.7(d) nor Clause 39.6.4 shall permit disclosure of Confidential Information otherwise prohibited by Clause 39.5 where that information is exempt from disclosure under Section 41 of FOIA.

39.7 Where disclosure is permitted Clause 39.6, other than Clauses 39.6.2, 39.6.4, 39.6.5 and 39.6.7, the Party providing the information shall procure that the recipient of the information shall be subject to the same obligation of confidentiality as that contained in this Contract.

39.8 For the purposes of the National Audit Act 1983 the Comptroller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Service Provider and any Sub-contractor and may require the Service Provider and any Sub-contractor to produce such oral or written explanations as he considers necessary.

39.9 The Service Provider shall not make use of the Contract or any information issued or provided by or on behalf of the Authority in connection with the Contract otherwise than for the purpose of the Contract, except with the written consent of the Authority.

39.10 Where the Service Provider, in carrying out its obligations under the Contract, is provided with information relating to Detainees, the Service Provider shall not disclose or make use of any such information otherwise than for the purpose for which it was provided, unless the Service Provider has sought the prior written consent of that Detainee and has obtained the prior written consent of the Authority.

39.11 On or before the Expiry Date, the Service Provider shall ensure that all documents or computer records in its possession, custody or control, which contain information relating to Detainees including any documents in the possession, custody or control of a Sub-contractor, are delivered up to the Authority.

39.12 The Service Provider may only disclose the Authority's Confidential Information to Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.

39.13 Nothing in this Contract shall prevent the Authority from disclosing the Service Provider's Confidential Information:

39.13.1 to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other

Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;

39.13.2 to any consultant, contractor or other person engaged by the Authority or any person conducting an Office of Government Commerce gateway review.

39.14 The Authority shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-contractor to whom the Service Provider's Confidential Information is disclosed pursuant to this Clause 39 is made aware of the Authority's obligations of confidentiality.

39.15 Nothing in this Clause 39 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of IPR.

39.16 The provisions of this Clause 39:

39.16.1 are without prejudice to the application of the Official Secrets Acts 1911 to 1989 and section 182 of the Finance Act 1989; and

39.16.2 shall survive termination of the Contract for whatever reason.

39.17 **Freedom of Information**

39.17.1 The Service Provider acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations and shall facilitate the Authority's compliance with its Information disclosure requirements pursuant to the same in the manner provided for Clause 39.17.2 to 39.17.5 (inclusive) below.

39.17.2 Where the Authority receives a Request for Information in relation to Information that the Service Provider is holding on its behalf and which the Authority does not hold itself the Authority shall refer to the Service Provider such Request for Information that it receives as soon as reasonably practicable and the Service Provider shall:

(a) provide the Authority with a copy of all such Information in the form that the Authority requires as soon as practicable and in any event within five (5) Business Days (or such other period as the Authority acting reasonably may specify) of the Authority's request; and

(b) provide all necessary assistance as reasonably requested by the Authority in connection with any such Information, to enable the Authority to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Authority.

39.17.3 Following notification under Clause 39.17.2, and up until such time as the Service Provider has provided the Authority with all the Information specified in Clause 39.17.2(a), the Service Provider may make representations to the Authority as to whether or not or on what basis Information requested should be disclosed, and whether further information should reasonably be provided in order to identify and locate the information requested, provided always that the Authority shall be responsible for determining at its absolute discretion :-

(a) whether Information is exempt from disclosure under the FOIA and the Environmental Information Regulations; and

(b) whether Information is to be disclosed in response to a Request for Information,

and in no event shall the Service Provider respond directly, or allow its Sub-contractors to respond directly, to a Request for Information unless expressly authorised to do so by the Authority.

39.17.4 The Service Provider shall transfer to the Authority any Request for Information received by the Service Provider as soon as practicable and in any event within two (2) Business Days of receiving it.

39.17.5 In the event of a request from the Authority pursuant to Clause 39.17.2 above, the Service Provider shall as soon as practicable, and in any event within three (3) Business Days of receipt of such request, inform the Authority of the Service Provider's estimated costs of complying with the request to the extent these would be recoverable if incurred by the Authority under Section 12(1) of the FOIA and the Fees Regulations. Where such costs (either on their own or in conjunction with the Authority's own such costs in respect of such Request for Information) will exceed the appropriate limit referred to in Section 12(1) of the FOIA and as set out in the Fees Regulations (the "**Appropriate Limit**") the Authority shall inform the Service Provider in writing whether or not it still requires the Service Provider to comply with the request and where it does require the Service Provider to comply with the request the five (5) Business Days period for compliance may be extended by such number of additional days for compliance as the Authority is entitled to under Section 10 of the FOIA. In such case, the Authority shall notify the Service Provider of such additional days as soon as practicable after becoming aware of them and shall reimburse the Service Provider for such costs as the Service Provider incurs in complying with the request to the extent it is itself entitled to reimbursement of such costs in accordance with its own FOIA policy from time to time.

39.17.6 The Service Provider acknowledges that the Commercially Sensitive Information listed in Schedule I is of indicative value only and that the Authority may be obliged to disclose it in accordance with this Clause 39 and the requirements of the FOIA and the Environmental Regulations.

39.17.7 The Service Provider acknowledges that (notwithstanding the provisions of this Clause 39) the Authority may, acting in accordance with the (then) Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part I of the Freedom of Information Act 2000 (the "**Code**"), be obliged under the FOIA, or the Environmental Information Regulations to disclose Information concerning the Service Provider or the Services:-

(a) in certain circumstances without consulting with the Service Provider; or

(b) following consultation with the Service Provider and having taken their views into account,

provided always that where Clause 39.17.7(a) above applies the Authority shall, in accordance with the recommendations of the Code, draw this to the attention of the Service Provider prior to any disclosure.

39.17.8 The Service Provider shall ensure that any Sub-contract it enters into in relation to this Contract contains a clause in similar terms to this Clause 39.17 whereby the Sub-contractor acknowledges the Authority's responsibilities under the FOIA and agrees to co-operate with the Authority so that these responsibilities can be discharged.

39.17.9 The Service Provider shall ensure that all Information is retained for disclosure in accordance with Clause 42 (*Service Provider's Records*) and shall permit the Authority to inspect such records as requested from time to time.

40. INTELLECTUAL PROPERTY RIGHTS

40.1 All Intellectual Property Rights in data, reports, software, designs, inventions and/or other material produced by the Authority shall vest in and be the property of the Crown.

40.2 All Intellectual Property Rights in the Data shall vest in and be the property of the Crown. To the extent that any Intellectual Property Rights in the Data vest in the Service Provider or any Sub-contractor or other third party engaged by the Service Provider in performing the Contract, the Service Provider hereby assigns to the Authority (or shall procure that the Authority is granted) all such present and future Intellectual Property Rights. By virtue of this Clause 40.2 all Intellectual Property Rights in the Data created by the Service Provider shall vest in the Crown on their creation.

40.3

40.3.1 Subject to Clause 40.1, the Service Provider hereby grants to the Authority, or shall procure that the Authority is granted, a non-exclusive irrevocable licence to use, modify, adapt and enhance Intellectual Property Rights in any data, reports, software, designs, inventions, and/or other material used by the Service Provider which relates to provision of the Services (or substantially equivalent Services) for any purposes in furtherance of the duties of the Authority (with the right to grant sub-licences for such purpose) whether by a replacement service provider r or by any other person. Except as provided at Clause 40.3.3, the licence shall be a perpetual licence and free of charge. Where Intellectual Property Rights in data, reports, software, designs, inventions and/or other material used by the Service Provider for the purpose of the provision of the Services are vested in a third party including any Service Provider Party, Service Provider Staff or Sub-contractor, the Service Provider shall ensure that the Service Provider has all rights necessary to enable the Service Provider to carry out its obligations under the Contract. The Service Provider shall ensure that it is a condition of any licence that the Service Provider or any Sub-contractor enters into with a third party that the Authority shall be entitled to a licence or all relevant materials in identical terms to this Clause 40.3.

40.3.2 Where a licence is granted to the Authority by or in consequence of this Clause 40.3, such use shall include the right of access to and the right to copy, adapt, publish and distribute in whatever form reasonably requested by the Authority any or all of the said material during the term of the Contract, and at any time thereafter.

40.3.3 Where there is a change in the legal status of the Authority which means that it ceases to be a central government body the change shall not affect the validity of any licence granted by the Service Provider in this Clause 40.3. If the Authority ceases to be a central government body, the successor body to the Authority shall still be entitled to the benefit of any licence granted in Clause 40.3.

40.3.4 The Service Provider shall procure (and/or shall procure that any relevant Service Provider Party shall procure) that all licences in respect of software used by the Service Provider in connection with the provision of the Services (including but not limited to the e-booking form developed in accordance with Schedule D (*Service Specification*) shall continue (and such licences will permit the Authority to use the same software) for a period of twelve (12) months from expiry or termination of the Contract. The Service Provider shall ensure that all licences for software that are not Commercially Available may be extended at the request of the Authority thereafter on the same terms. Where the Authority requires an extended right of use of any software used by the Service Provider in connection with the provision of the Services that is not Commercially Available, the Authority shall exercise reasonable endeavours to pay or procure the payment of, in accordance with terms agreed between the Parties, a reasonable licence fee for any such use for the extended period. In determining whether or not any licence fee is reasonable regard shall be had to the nature and use made of the software, licence fees charged to the Service Provider, Service Provider Party, Service Provider Staff or Sub-contractor by their licensors for such software, good industry practice, relevant standards and the licence fees for the software normally charged by the Service Provider, Service Provider Party, Service Provider Staff or Sub-contractor in similar circumstances.

40.4 The Service Provider warrants and undertakes that any items referred to in Clause 40.3 and used in accordance with the provisions of the Contract or provided to the Authority do not and will not infringe any third party's Intellectual Property Rights and the Service Provider shall fully

and promptly indemnify and keep indemnified the Authority, any Authority Party, Authority Staff and Authority officers, agents and service providers against all costs, claims, demands, expenses and liabilities which any of them may suffer arising out of or in connection with any claim, action or proceedings alleging that the normal use of any of those items infringes the Intellectual Property Rights of any third party.

40.5 Without limitation to Clause 51 (Data Protection and Authority Data), the Service Provider agrees to provide to the Authority immediate access to all information in whatever form reasonably requested by the Authority (including without limitation the source code of any software that is not Commercially Available) used in the provision of the Services or required for it to take over the operation of the Services at any time. The Service Provider shall upon the written request of the Authority enter into an information deposit and/or source code escrow agreement with the Authority and a third party nominated by the Authority in respect of such information in such form as the Authority may require.

40.6 The Service Provider shall ensure that any Sub-contract imposes obligations, which are identical in effect on the Sub-contractor as are imposed on the Service Provider under this Clause 40.

40.7 The Service Provider shall upon the request of the Authority promptly execute all documents and do all acts and things which may be necessary to bring into effect or confirm any assignment or the terms of any of the licences contained or referred to in Clause 40.3.

40.8 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

40.9 The Authority hereby grants to the Service Provider for the Contract Term and free of charge a non-exclusive royalty-free licence only for the purpose of, and solely as necessary for, the provision of the Services to use such of the Authority's Data (including the Data), reports, software, designs, inventions and/or other material of the Authority as the Authority agrees to provide to the Service Provider for the purposes of this Contract and which relates to the provision of the Services. To the extent that any modifications or enhancements to materials licensed by the Authority to the Service Provider under this Clause 40.9 are carried out by or on behalf of the Service Provider in performing this Contract, the Service Provider hereby assigns (or shall procure that the Authority is granted an assignment of all present and future Intellectual Property Rights in those modifications and enhancements. By virtue of this Clause 40.9 all such Intellectual Property Rights shall vest in the Authority on their creation.

41. COMPUTER SYSTEMS

41.1 The Service Provider shall ensure that neither the performance nor the functionality of all computer and communication systems (including both hardware and software) and other technology used by the Service Provider, Service Provider Party, Service Provider Staff or any Sub-contractor in connection with the Services (the "**Computer Systems**") will be impaired by the advent of any date, and in particular the Computer Systems are and shall remain able to:

41.1.1 handle time-related information and produce the desired results for all valid date values, including without limitation leap year calculations, including accepting date input, providing date output and performing calculations on dates or portions of dates;

41.1.2 handle date fields or elements in all software and hardware components (the "**Date Fields**") of the Computer Systems (including interfaces and data storage) so that the Date Fields permit specifying the century to eliminate date ambiguity; and

41.1.3 handle any Date Field which is represented without a century, so that the correct century shall be unambiguous for all manipulations involving that Date Field, using appropriate algorithms or inferencing rules

and shall be Euro Compliant.

41.2 The Service Provider shall exercise reasonable endeavours to ensure the computer and communications systems used by the Service Provider are and remain, and shall procure that computer and communications systems used by any Service Provider Party , Service Provider Staff, or Sub-contractor in connection with the Services are and remain free of material errors and Viruses.

Malicious Software

41.3 The Service Provider shall, as an enduring obligation throughout the Contract Term, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the Service Provider System.

41.4 Notwithstanding Clause 41.3, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Authority Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.

41.5 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 41.4 shall be borne by the Parties as follows:

41.5.1 by the Service Provider where the Malicious Software originates from the Service Provider's software or the Authority Data (whilst the Authority Data was under the control of the Service Provider); and

41.5.2 by the Authority if the Malicious Software originates from the Authority's software or the Authority Data (whilst the Authority Data was under the control of the Authority).

42. SERVICE PROVIDER'S RECORDS

42.1 The Service Provider shall at all times:

42.1.1 Keep and maintain a full record of particulars of the costs of performing the Contract;

42.1.2 when requested by the Authority, furnish the detail and summary of any of the costs mentioned in this Clause 42 in such form and detail as the Authority may reasonably require; and

42.1.3 afford such facilities as the Authority may reasonably require for its representatives to visit the Service Provider's Premises (or any other place where the records are held) and examine the records maintained under this Clause;

and shall procure that any Service Provider Party, Service Provider Staff and Sub-contractor shall keep and maintain a full record of particulars of the costs of performing its obligations under the Sub-contract or other agreement between itself and the Service Provider and that the Authority shall on request be furnished with details thereof in such form and detail as the Authority may reasonably require.

42.2 The Service Provider shall keep and maintain records and books of account in accordance with best accountancy practice and law with respect to the Contract showing in detail:

42.2.1 expenditure on wages and salaries and other employment costs;

42.2.2 administrative overheads;

42.2.3 expenditure on consumable items;

42.2.4 payments made to Sub-contractors;

42.2.5 resourcing/staffing levels;

42.2.6 such other items as the Authority may reasonably require;

and the Service Provider shall have the items identified in Clauses 42.2.1 to 42.2.6 above available for inspection by the Authority upon reasonable notice and shall present a report of the same to the Authority as and when requested.

42.3 The Authority's right of access to records and books of account shall include cost audits for verification of cost expenditure, for the purposes of Clause 9 (*Changes*).

42.4 The Service Provider shall maintain such other records and books relating to the Service and the obligations of the Service Provider under the Contract and make the same available to the Authority as the Authority may reasonably require.

42.5 The Service Provider shall permit records and books referred to in this Clause 42 to be examined and copied by the Contract Administrator, and by the Controller and Auditor General and his representatives.

42.6 The records and books referred to in this Clause 42 shall be retained for a period of at least six (6) years after the responsibilities of the Service Provider under the Contract have come to an end.

42.7 For the purpose of:

42.7.1 the examination and certification of the accounts of the Authority, or

42.7.2 any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency, and effectiveness with which the Authority has used its resources,

42.8 The Authority may conduct audits for the following purposes:

42.8.1 to verify the accuracy of the prices and rates payable under Schedule F (*Payment Mechanism*) (and proposed or actual variations to it in accordance with this Contract) and/or the costs of all suppliers (including Sub-contractors) of the Services;

42.8.2 to review the integrity, confidentiality and security of the Authority Data;

42.8.3 verify the Supplier's and each Sub-Contractor's compliance with the applicable Law;

42.8.4 to review the Service Provider's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with Clauses 51 (*Data Protection*) and 39 (*Confidential Information Use of Documents & Freedom of Information*) and any other legislation, codes of practice or guidance applicable to the Services;

42.8.5 to review the Service Provider's compliance with its obligations under Clauses 13 (*Conduct of the Services*) and 18 (*Monitoring, Inspection and Access*);

42.8.6 to review any books of account kept by the Service Provider in connection with the provision of the Services;

42.8.7 to carry out the audit and certification of the Authority's annual and interim reports and accounts;

42.8.8 to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;

42.8.9 to verify the accuracy and completeness of any Management Information delivered required by this Contract;

42.8.10 to identify or investigate an actual or suspected Prohibited Act, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Authority shall have no obligation to inform the Service Provider of the purpose or objective of its investigations;

42.8.11 to identify or investigate any circumstances which may impact upon the financial stability of the Service and/or the Service Provider Party and/or the Service Provider Staff and/or the Guarantor and/or any Sub-Contractors or their ability to provide the Services;

42.8.12 to obtain such information as is necessary to fulfil the Authority's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;

42.8.13 to verify the accuracy and completeness of any information delivered or required by this Contract;

42.8.14 to inspect the Customer Assets, including the Customer's IPRs, equipment and facilities, for the purposes of ensuring that the Customer Assets are secure and that any register of assets is up to date;

42.8.15 to ensure that the Service Provider is complying with the Standards; and/or

42.8.16 any other audit that may be required by any Regulatory Body.

42.9 The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Service Provider or delay the provision of the Services save insofar as the Service Provider accepts and acknowledges that control over the conduct of an audit conducted by the Comptroller and Auditor General is out side the control of the Service Provider.

42.10 Subject to the Authority's obligations of confidentiality, the Service Provider shall on demand provide the Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:

42.10.1 all information requested by the Authority within the permitted scope of the audit;

42.10.2 reasonable access to any sites controlled by the Service Provider and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;

42.10.3 access to the Service Provider System; and

42.10.4 access to the Service Provider's Staff.

42.11 The Authority shall endeavour to (but is not obliged to) provide at least 5 Working Days notice of its intention to conduct an audit.

42.12 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 42, unless the audit identifies a material default by the Service Provider in which case the Service Provider shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.

42.13 If an audit identifies that:

42.13.1 the Service Provider has failed to perform its obligations under this Contract in any material manner, the Parties shall agree and implement a remedial plan. If the Service Provider 's failure relates to a failure to provide any information to the Authority about the prices and rates payable under Schedule F (*Payment Mechanism*) or any proposals therefor or the Service Provider's costs, then the remedial plan shall include a requirement for the provision of all such information;

42.13.2 the Authority has overpaid any of the prices and rates payable under Schedule F (*Payment Mechanism*), the Service Provider shall pay to the Authority the amount overpaid within 20 Working Days. The Authority may deduct the relevant amount from the prices and rates payable under Schedule F (*Payment Mechanism*) if the Service Provider fails to make this payment; and

42.13.3 the Authority has underpaid any prices and rates payable under Schedule F (*Payment Mechanism*), the Authority shall pay to the Service Provider the amount of the under-payment less the cost of audit incurred by the Authority if this was due to an Event of Default by the Service Provider in relation to invoicing within 20 Working Days.

42.14 Upon the termination of the Contract, and in the event that the Authority wishes to enter into another contract for services similar to or the same as the Services, and without prejudice to the identity of any new contractor or replacement Sub-contractors, the Service Provider shall (and shall ensure that the Sub-contractors will) comply with all reasonable requests by the Authority to provide information relating to the costs of providing the Services. Such information shall include information relating to the anticipated cost of a transfer of the Services to a new contractor.

42.15 The Service Provider shall forthwith following termination of the Contract for whatever reason (including effluxion of time) deliver (or procure delivery) to the Authority, any replacement service provider or any person nominated by either of them:

42.15.1 all reports, data and other Authority owned material in its possession and all copies thereof;

42.15.2 all Data in its possession on suitable media as specified by the Authority; and

42.15.3 copies of all data, reports, software and any material licensed by the Service Provider to the Authority under the Contract.

43. SERVICE PROVIDER'S GENERAL WARRANTIES

43.1 Without prejudice to any warranties or conditions on the part of the Service Provider implied by law, the Service Provider warrants in favour of the Authority, which warranties shall be given at the Date of Contract and at all times throughout the Contract Term that:

43.1.1 all information, representations and other matters of fact communicated in writing to the Authority, The Authority Party, or the Authority Staff in connection with the Service Provider's response to the Invitation to Tender or Schedule D (*Service Specification*) or subsequently in respect of the Contract, are and will be true, complete and accurate in all material respects and not presented in a misleading fashion;

43.1.2 it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;

43.1.3 it has full power and authority to enter into the Contract and to carry out its obligations under the Contract;

43.1.4 it has all necessary consents (including, where its procedures so require, the consent of its Parent Company) and regulatory approvals to enter into this Contract;

43.1.5 this Contract is executed by its duly authorised representative;

43.1.6 the entry into and performance by it of the Contract do not and will not:

(a) conflict with its constitutional documents; or

(b) conflict with any document which is binding upon it or any of its assets to the extent that such conflict would be reasonably likely to have a material adverse effect on the ability of the Service Provider to perform its obligations under the Contract;

43.1.7 there has been no material adverse change in the financial condition of the Service Provider since the date of the Service Provider's last available set of audited accounts;

43.1.8 there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or, any of its Affiliates that might affect its ability to perform its obligations under this Contract; and

43.1.9 its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with the terms of the Contract subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or Law).

43.2 The Service Provider warrants, represents and undertakes for the duration of the Contract Term that:

43.2.1 any Service Provider Party, Staff and Sub-Contractor used to provide the Services will be vetted in accordance with Good Industry Practice, the Security Policy and the Standards;

43.2.2 it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform the Service Provider's obligations under this Contract;

43.2.3 it has and will continue to have all necessary rights in and to the software it uses in providing the Services and/or the Service Provider's Background IPRs, or any other materials made available by the Service Provider and/or the Sub-contractors to the Authority necessary to perform the Service Provider's obligations under this Contract;

43.2.4 it shall at all times comply with applicable Legislation in carrying out its obligations under this Contract.

43.2.5 it shall comply with the International Air Transport Association Guidelines;

43.2.6 its execution, delivery and performance of its obligations under this Contract does not and will not constitute a breach of any Law or obligation applicable to it and does not and will not cause or result in a Default under any agreement by which it is bound;

43.2.7 if the Contract Charges payable under this Contract exceed or are likely to exceed five (5) million pounds, as at the Commencement Date it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in connection with any Occasions of Tax Non Compliance;

43.2.8 it has and shall continue to have all necessary rights in and to any of the Service Provider IPRs and any other materials made available by the Service Provider (and/or any Sub-Contractor) to the Authority which are necessary for the performance of the Supplier's obligations under this Contract including the receipt of the Goods and/or Services by the Authority ;

43.2.9 it shall take all steps, in accordance with Good Industry Practice, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or Trojans, spyware or other malware) into systems, data, software or the Authority 's Confidential Information (held in electronic form) owned by or under the control of, or used by, the Authority;

43.2.10 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Contract;

43.2.11 it is not affected by an Insolvency Event and no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Service Provider or for its dissolution or for the appointment of

a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue; and

43.2.12 for the Contract Period and for a period of twelve (12) months after the termination or expiry of this Contract, the Service Provider shall not employ or offer employment to any staff of the Authority which have been associated with the provision of the Goods and/or Services without Approval or the prior written consent of the Authority which shall not be unreasonably withheld.

43.3 Each of the representations and warranties set out in Clauses 43 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any undertaking in this Contract.

43.4 If at any time a Party becomes aware that a representation or warranty given by it under Clause 43 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.

43.5 For the avoidance of doubt, the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination the Authority may have in respect of breach of that provision by the Service Provider which constitutes a material Default.

44. DUE DILIGENCE

44.1 The Service Provider acknowledges that:

44.1.1 the Authority has delivered or made available to the Service Provider all of the information and documents that the Service Provider considers necessary or relevant for the performance of its obligations under this Contract;

44.1.2 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the information provided to it by the Authority;

44.1.3 it has raised all relevant due diligence questions with the Authority before the date of the Service Provider, made its tender submission;

44.1.4 it has undertaken all necessary due diligence and has entered into this Contract in reliance on its own due diligence alone; and

44.1.5 it shall not be excused from the performance of any of its obligations under this Contract on the grounds of, nor shall the Service Provider be entitled to recover any additional costs or charges, arising as a result of any:

(a) misinterpretation of the requirements of the Authority in the Order Form or elsewhere in this Contract;

(b) failure by the Service Provider to satisfy itself as to the accuracy and/or adequacy of the Due Diligence Information; and/or

(c) failure by the Service Provider to undertake its own due diligence.

44.1.6 the receipt of the Goods and/or Services by the Authority;

45. INDEPENDENT CONTRACTOR

45.1 The Service Provider shall at all times be an independent contractor and nothing in the Contract shall be construed as creating a contract of employment, a relationship of agency or a partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

45.2 Neither the Service Provider nor any of its Staff or any Service Provider Party shall at any time hold itself or themselves out to be the employee of the Authority and neither the Service Provider nor any of its Staff or any Service Provider Authority shall be entitled to any of the benefits provided by the Authority to its officers and Staff.

46. AUTHORITY TO COMMIT AND VARIATION

46.1 There shall be Named Representatives of the Authority, whose names shall appear in Schedule M (*Named Representatives*) and who shall act as Contract Administrators for the Authority. In the event of any change to the Named Representatives the Authority shall give written notice of the change to the Service Provider. A change in the Named Representatives does not constitute a variation of the Contract.

46.2 Any variation of any provision of the Contract must be effected in writing issued by the Authority or its Named Representatives and no purported variation by any other means shall bind the Authority.

47. SERVICE OF NOTICES

47.1 Any notice, notification, consent, approval, direction or other communication whatsoever which the Authority is required or authorised by the Contract to give or make to the Service Provider shall, without prejudice to any other method of giving or making it, be sufficiently given or made if it is sent by recorded or registered post addressed to the Service Provider at its registered office and that notice or other communication shall be deemed for the purpose of the Contract to have been given or made at the time at which the letter would in the ordinary course of post be delivered, save where there is express contractual provision to the contrary.

47.2 Any notice or consent which the Service Provider is required to give to the Authority under the terms of the Contract shall be sufficiently given if it is sent by recorded or registered post addressed to the Home Office (marked for the attention of Head of Commercial) at Bedford Point, 2nd Floor, 35 Dingwall Road, Croydon, CR9 2EF (or such other address as may be notified from time to time). Such notice or consent shall be deemed to have been given at the time at which the letter would in the ordinary course of post be delivered, save where there is express contractual provision to the contrary.

48. WAIVER

48.1 Neither the failure of either Party at any one time to enforce any provision of the Contract nor any delay in enforcing any such provision shall in any way affect its right thereafter to require complete performance by the other Party, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any subsequent breach of any provision, or be a waiver of the provision itself.

48.2 The rights of each Party under the Contract:

48.2.1 are cumulative and not exclusive of its rights under any other agreement, general law or otherwise howsoever;

48.2.2 may be waived only in writing and specifically; and

48.2.3 any single or partial exercise of any right or remedy shall not prevent any further or other exercise thereof or the exercise of any other right or remedy.

49. LAW OF THE CONTRACT AND JURISDICTION

The Contract is governed by and shall be construed in accordance with the laws of England and Wales and the Parties hereby submit to the exclusive jurisdiction of the English courts.

50. NON-DISCRIMINATION

50.1 The Service Provider shall:

(a) perform its obligations under this Contract (including those in relation to provision of the Services) in accordance with:

(i) all applicable equality Law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and

(ii) any other requirements and instructions which the Authority imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law;

(b) take all necessary steps, and inform the Authority of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

50.2 The Service Provider shall take all reasonable steps to secure that any Service Provider Party and its Staff does not unlawfully discriminate within the meaning and scope of the aforementioned enactments.

51. DATA PROTECTION AND AUTHORITY DATA

Data Protection

51.1 The Service Provider shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Authority to breach any of its applicable obligations under the Data Protection Legislation.

51.2 The Service Provider shall provide the Authority with such information as the Authority may require to satisfy itself that the Service Provider is complying with its obligations including (without limitation) a copy of the Service Provider's data protection registration or notification from time to time under the Data Protection Act.

51.3 The Service Provider shall comply with all instructions given by the Authority (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Authority to the Service Provider during the Contract Term) in relation to the Processing of Personal Data including (without limitation) that the Personal Data is processed in accordance with the Authority's data protection registration or notification from time to time under the Data Protection Act.

51.4 Any disclosure or access to Personal Data by the Service Provider on behalf of the Authority shall be carried out in accordance with the Authority's data protection registration or notification and the Data Protection Act, shall be made in confidence and shall extend only so far as necessary for the purpose of the Contract.

51.5 The Service Provider shall ensure that it does nothing which shall cause the Authority to contravene any provisions of the Data Protection Act and shall fully indemnify the Authority against the costs of dealing with any civil claims made in respect of information subject to the Data Protection Act, which claims would not have arisen but for some act, omission or negligence on the part of the Service Provider, its servants or agents.

51.6 The Service Provider shall, and shall procure that its employees, agents and Sub-contractors or any other person in the control of the Service Provider to whom the Service Provider lawfully discloses Personal Data on behalf of and with the consent of the Authority shall, store and process the Personal Data in accordance with the Authority's data protection registration or notification from time to time the Data Protection Act and any other applicable statutory obligations or guidelines relating to the processing of Personal Data.

51.7 Without affecting Clause 51.4, the Service Provider shall bring into effect and maintain all such organisational and technical measures as the Authority considers necessary to prevent any unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data (each event being a "**Data Protection Event**"). These

measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected. The Service Provider recognises that the Services will involve processing of sensitive data and that the security measures required by the Authority shall reflect this.

51.8 The Service Provider shall ensure that all Staff of the Service Provider or any Sub-contractor having access to Personal Data shall be reliable and responsible persons who appreciate the confidentiality of the Personal Data and the need to guard against breaches of Data Protection Legislation.

51.9 All Personal Data the subject of this Clause 51 shall be retained at all times in the possession and under the control of the Service Provider. All rights in any compilation or database of Personal Data concerning any Detainee shall vest in and be the property of the Crown. The Service Provider shall ensure that the Authority at all times has full rights of access to all Personal Data and may take copies thereof.

51.10 The Service Provider shall not store or process Personal Data which is the subject of this Clause 51 other than in connection with and to the extent necessary for the performance of the Services.

51.11 The Service Provider shall:

51.11.1 Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by relevant Legislation or any Regulatory Body;

51.11.2 obtain prior written consent from the Authority in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;

51.11.3 ensure that none of the Service Provider's Staff publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority;

51.11.4 notify the Authority (within five Working Days) if it receives:

50.11.4.1 a request from a Data Subject to have access to that person's Personal Data; or

50.11.4.2 a complaint or request relating to the Authority's obligations under the Data Protection Legislation;

51.11.5 provide the Authority with full cooperation and assistance in relation to any complaint or request made, including by:

50.11.5.1 providing the Authority with full details of the complaint or request;

50.11.5.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Authority's instructions;

50.11.5.3 providing the Authority with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Authority); and

50.11.5.2 providing the Authority with any information requested by the Authority;

51.11.6 permit the Authority or a Representative of the Authority (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with Clause 42 (*Service Provider's Records*), the Service Provider's data Processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Authority to enable the Authority to verify and/or procure that the Service Provider is in full compliance with its obligations under this Contract;

51.11.7 provide a written description of the technical and organisational methods employed by the Service Provider for processing Personal Data (within the timescales required by the Authority); and

51.11.8 not Process Personal Data outside the European Economic Area without the prior written consent of the Authority and, where the Authority consents to a transfer, to comply with:

50.11.8.1 the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and

50.11.8.2 any reasonable instructions notified to it by the Authority.

Authority Data

51.12 The Service Provider shall not delete or remove any proprietary notices contained within or relating to the Authority Data.

51.13 The Service Provider shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Service Provider of its obligations under this Contract, or as otherwise expressly authorised in writing by the Authority.

51.14 To the extent that Authority Data is held and/or processed by the Service Provider, the Service Provider shall supply that Authority Data to the Authority as requested by the Authority.

51.15 Upon receipt or creation by the Service Provider of any Authority Data and during any collection, Service Provider shall take all precautions necessary to preserve the integrity of the Authority Data and to prevent any corruption or loss of the Authority Data.

51.16 The Service Provider shall ensure that any system on which the Service Provider holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy.

51.17 If at any time the Service Provider suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Service Provider shall notify the Authority immediately and inform the Authority of the remedial action the Service Provider proposes to take.

52. HEALTH AND SAFETY

52.1 All premises, vehicles, plant, machinery, fixtures, fittings, chattels and other equipment supplied by the Service Provider in performance of the Contract shall comply with all provisions of any applicable laws relating to health and safety from time to time in force. Crown immunity shall not apply to the Service Provider, who shall be liable for any failure to meet statutory or other legal requirements in respect of these items.

52.2 The Service Provider shall be responsible for the observance by itself, any Service Provider Party and its Staff of all current and relevant health and safety precautions necessary for the protection of itself, any Service Provider Party and its Staff and any other persons invited on to or visiting the Service Provider's premises or whose health, safety or welfare may be affected by performance of the Contract, including all precautions required to be taken by or under any Legislation or health and safety policy of the Authority.

52.3 Without prejudice to the generality of the foregoing, the Service Provider shall so perform its obligations under the Contract that all duties placed upon the Authority under applicable health and safety laws and the Home Office's health and safety policy shall be fully discharged.

52.4 The Service Provider shall throughout the life of the Contract immediately notify the Authority of any health and safety incidents or material health and safety hazards which may affect the Authority and/ or any Detainees. .

53. NOT USED

54. SEVERABILITY

In the event that any term, condition or provision contained herein shall be held to be invalid, unlawful or unenforceable to any extent, such term, Clause or provision shall, to that extent, be omitted from this Contract and the rest of the Contract shall stand without affecting the remaining Clauses.

55. DISPUTE RESOLUTION

55.1 All disputes or differences between the Authority and the Service Provider arising out of or in connection with the Contract whether before or after repudiation or termination of the Contract (a "**Dispute**") shall be determined in accordance with the provisions of Schedule J (*Dispute Resolution Procedure*).

55.2 Unless the Contract has already been terminated, the Service Provider shall in every case continue to proceed with the Services and comply with its obligations under the Contract with all due diligence regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution under Schedule J (*Dispute Resolution Procedure*) (but without prejudice to the rights and obligations of the Parties in relation to the termination of the Contract and without prejudice to the right of the Authority to serve a Termination Notice pursuant to Clause 30.1 and any Termination Notice already given by the Authority shall continue to take effect unless the Authority notifies the Service Provider in writing to the contrary).

56. PRECEDENCE

56.1 In the event of any discrepancy arising between:

56.1.1 the body of the Contract and any term in any Schedule, then the provision in the body of the Contract shall prevail; and

56.1.2 the provisions of Part 1 and Part 2 of Schedule D (*Service Specification*), then the provisions in Part 1 shall prevail.

57. COUNTERPARTS

The Contract may be executed in any number of counterparts, all of which when taken together shall constitute one and the same instrument.

58. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT AND PRIVITY OF CONTRACT

58.1 A person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

59. COMPETITION ACT

59.1 In the event that either Party reasonably considers that this Contract infringes or may infringe the Chapter I prohibition contained in the Competition Act 1998 and/or Article 101 of the Treaty On the Functioning of the European Union, then each Party will co-operate with the other, each using its respective reasonable endeavours and each bearing its own costs and expenses to persuade and satisfy the Relevant Regulatory Authority of the legality and enforceability of this Contract in its original form and for such purposes shall jointly undertake all such filings, notifications, discussions, negotiations or settlements with the Relevant Regulatory Authority as the Parties agree shall be necessary or desirable. In particular, without prejudice to the generality of the foregoing, the Parties shall consider together whether a joint application shall be made to the Relevant Regulatory Authority for clearance or exemption Regulation1/2003 in relation to Article 101 of the Treaty On the Functioning of the European Union or under the Competition Act 1998 in respect of the Chapter 1 prohibition. The Parties shall jointly make any

necessary written or oral submissions to the Relevant Regulatory Authority unless requested by the Relevant Regulatory Authority to respond individually.

59.2 If any provision of this Contract is deemed unenforceable by operation of Article 101 of the Treaty On the Functioning of the European Union or Chapter I of the Competition Act 1998 then the Parties shall in good faith consult with each other to agree an alternative provision which achieves a result as similar as possible to the result which would have been achieved by the provision deemed unenforceable.

60. ENTIRE AGREEMENT

60.1 Except as expressly provided otherwise in this Contract, the Contract constitutes the entire agreement between the Parties in connection with its subject matter and supersedes all prior warranties, representations, communications, negotiations, agreements between the Parties, course of dealings and understandings concerning the subject matter of this Contract, whether written or oral.

60.2 Nothing in this Clause shall exclude any liability on the part of the Service Provider in respect of misrepresentations made negligently or fraudulently.

61. EXTENSION OF THE CONTRACT TERM

61.1 Subject to Clause 61.4 the Authority may extend the term of the Contract by one year, on no more than two occasions on giving the Service Provider notice in writing.

61.2 Any notice given under this Clause 61 shall:

61.2.1 specify the length of the extension sought; and

61.2.2 be served not less than 3 months prior to the Expiry Date.

61.3 For the avoidance of doubt, any extension shall be on the same terms as specified in this Contract.

61.4 Following an extension under this Clause 61, the Expiry Date shall be the last day of the Contract Term as extended PROVIDED THAT the Expiry Date may not fall more than 7 years after the Commencement Date.

62. STEP-IN RIGHTS

62.1 On the occurrence of one or more of the events listed in Clause 62.1 the Authority may serve notice on the Service Provider (a “Step-In Notice”) that it will be taking action under this Clause 62 (Step-in Rights), either itself or with the assistance of a third party (provided that the Service Provider may require any third parties to comply with a confidentiality undertaking equivalent to Clause 39 (*Confidential Information, Use Of Documents & Freedom Of Information*):

62.1.1 a default by the Service Provider to which Clause 27 (Default by Service Provider) apples;

62.1.2 a Default by the Service Provider that is materially preventing or materially delaying the performance of the Services or any part of the Services;

62.1.3 a failure by the Service Provider to rectify a default;

62.1.4 a failure by a Service Provider to submit a proposal to rectify a default;

62.1.5 a failure by a Service Provider to submit a proposal to rectify a default that is approved by the Authority;

62.1.6 the Service Provider has accrued Service Credits in any period of 6 consecutive months in excess of 15% of the total of all Service Charges earned during that six month period;

62.1.7 a serious risk exists to the health or safety of persons, property or the environment;

62.1.8 a failure by the Service Provider to comply with the environmental requirements set out in Clause 63 (Environmental Requirements);

62.1.9 a failure by the Service Provider to comply with the anti-slavery and human trafficking requirements set out in clause 65 (Anti-Slavery and Human Trafficking); or

62.1.10 to discharge a statutory duty.

62.2 The Step-In Notice shall set out the following:

(a) the action the Authority wishes to take and in particular the Services that it wishes to control (the "Required Action");

(b) the event that has occurred which has caused the Authority to serve the Step-In Notice and whether the Authority believes that the Required Action is due to the Service Provider's Default;

(c) the date the Authority wishes to commence the Required Action;

(d) the time period the Authority believes will be necessary for the Required Action;

(e) whether the Authority will require access to the Service Provider's premises and/or the Sites; and

(f) to the extent practicable, the impact that the Authority anticipates the Required Action will have on the Service Provider's obligations to provide the Services during the period that the Required Action is being taken.

62.3 Following service of a Step-In Notice, the Authority shall:

(a) take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;

(b) keep records of the Required Action taken and provide information about the Required Action to the Service Provider;

(c) co-operate wherever reasonable with the Service Provider in order to enable the Service Provider to continue to provide the Services in relation to which the Authority is not assuming control; and

(d) act reasonably in mitigating the cost that the Service Provider will incur as a result of the exercise of the Authority's rights under this Clause 62.

62.4 For so long as and to the extent that the Required Action is continuing, then:

(a) the Service Provider shall not be obliged to provide the Services to the extent that they are the subject of the Required Action;

(b) no Deductions shall be applicable in relation to Charges in respect of Services that are the subject of the Required Action and the provisions of Clause 62.4 shall apply to Deductions from Charges in respect of other Services; and

(c) the Authority shall pay to the Service Provider the Charges after subtracting any applicable Deductions and the Authority's costs of taking the Required Action.

62.5 If the Service Provider demonstrates to the reasonable satisfaction of the Authority that the Required Action has resulted in:

(a) the degradation of any Services not subject to the Required Action; or

(b) the non-Achievement of a Milestone, beyond that which would have been the case had the Authority not taken the Required Action, then the Service Provider shall be entitled to an agreed adjustment of the Charges.

62.6 Before ceasing to exercise its step in rights under this Clause 62 the Authority shall deliver a written notice to the Service Provider (a "Step-Out Notice"), specifying:

(a) the Required Action it has actually taken; and

(b) the date on which the Authority plans to end the Required Action (the "Step-Out Date") subject to the Authority being satisfied with the Service Provider's ability to resume the provision of the Services and the Service Provider's plan developed in accordance with Clause 62.6.

62.7 The Service Provider shall, following receipt of a Step-Out Notice and not less than 20 Working Days prior to the Step-Out Date, develop for the Authority's approval a draft plan (a "Step-Out Plan") relating to the resumption by the Service Provider of the Services, including any action the Service Provider proposes to take to ensure that the affected Services satisfy the requirements of this Agreement.

62.8 If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Service Provider of its reasons for not approving it. The Service Provider shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority's approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.

62.9 The Service Provider shall bear its own costs in connection with any step-in by the Authority under this Clause 62, provided that the Authority shall reimburse the Service Provider's additional expenses incurred as a result of any step-in action taken by the Authority only in so far as such expenses are not identified as not being the result of the Service Provider's Default or unreasonable.

63. ENVIRONMENTAL REQUIREMENTS

63.1 The Service Provider shall perform its obligations under the Contract in accordance with the Authority's environmental policy, which includes requirements to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment. Where the Service Provider has not been provided with details of the Authority's environmental policy, the Service Provider shall request a copy of the same within 10 Working Days after the Date of the Contract.

63.2 The Service Provider shall conduct an annual self-assessment of its corporate social responsibility policy to include equality & diversity and environmental and socio-economic practices. The Service Provider shall report such findings to the Authority's Representative in such format as the Authority's Representative may request.

63.3 The Authority may make available a particular self-assessment tool to assist the Service Provider in conducting the self-assessment referred to in this Clause 63.3 and if the Authority does so, the Service Provider shall use that self-assessment tool.

63.4 The Service Provider shall comply with current Government Buying Standards for the provision of commodity goods and services. These are available at: http://sd.defra.gov.uk/advice/public/buying/

64. NON-EXCLUSIVITY

64.1 This Contract is non-exclusive and nothing herein shall prevent the Authority from providing services which are the same or similar to the Services, either through itself or through another service provider.

65. ANTI-SLAVERY AND HUMAN TRAFFICKING LAWS

65.1 The Service Provider shall:

65.1.1 comply with all anti-slavery and human trafficking laws, statutes, regulations codes of practice and guidance issued from time to time by the Authority including but not limited to the Modern Slavery Act 2015 and the Modern Slavery Act 2015 Regulations (Transparency in Supply Chain) Regulations 2015;

65.1.2 comply with any the anti-slavery policy created by the Authority or have and maintain throughout the term of this Contract its own policies and procedures approved by the Authority

65.1.3 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and

65.1.4 include in its contracts with its subcontractors and service providers anti-slavery and human trafficking provisions that are the same as those set out in this Clause 65 and require that each of its subcontractors and service providers comply with anti- slavery policies and all anti-slavery and human trafficking laws, statutes, regulations, codes of practice and guidance referred to in this Clause 65.

65.2 The Service Provider shall immediately notify the Authority in writing if it becomes aware of any breach of this Clause 65, or has reason to believe that it has or any of the Service Provider Party have:

65.2.1 been subject to an investigation or prosecution which relates to an alleged breach f any anti-slavery or human trafficking law;

65.2.2 been listed by any government department, agency, Regulatory Body or Relevant Regulatory Authority as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the ground of breaching any anti-slavery or human trafficking law; and/or

65.2.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person or Party directly or indirectly connected with this Contract has breached or attempted to breach any anti-slavery or human trafficking law.

65.3 If the Service Provider makes a notification to the Authority pursuant to this Clause 65, the Service Provider shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with Schedule Q (*Financial Reports and Audit Rights*).

65.4 If the Service Provider breaches this Clause 65. the Authority may:

65.4.1 give notice requiring the Service Provider to remove from performance of this Contract any Service Provider Party whose acts or omissions caused the Service Provider to breach this Clause 65 and requiring the Service Provider to pay any

costs, expenses, losses or other financial liabilities incurred by the Authority as a result of the breach; and/or

65.4.2 immediately terminate this Contract for Default;

65.5 Any notice served by the Authority under this Clause 65 shall specify the nature of the breach of any anti-slavery or human trafficking law , the identity of the Party who the Authority believes has committed the breach and the action that the Authority has elected to take (including, where relevant, the date on which this Contract shall terminate).

65.6 Any dispute relating to this Clause 65 may be referred by either party to dispute resolution in accordance with Clause 55 (*Dispute Resolution*), except that the arbitrator shall be a Queen's Counsel nominated by the Chairman of the Bar Council, who shall determine any issue on the balance of probabilities.

IN WITNESS whereof the Parties have executed this Contract as a deed on the date first above written.

Executed by **SECRETARY OF STATE FOR THE HOME DEPARTMENT**)
)
)
acting by:)
)

……

Authorised Signatory

Executed by
Carlson Wagonlit UK Ltd acting by:

)
……)

Director

……
Director/Secretary